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BENGAL SECRETARIAT LIBRARY

# DIGEST,

OR

## CONSOLIDATED ARRANGEMENT,

OF THE

GOV^T OF INDIA LIBRARY

# REGULATIONS AND ACTS

OF THE

# BENGAL GOVERNMENT,

FROM 1793 TO 1854.

PREPARED UNDER THE AUTHORITY OF

The Hon. the Court of Directors of the East-India Company,

BY

RICHARD CLARKE, Esq.,

LATE OF THE MADRAS CIVIL SERVICE

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# GENERAL PREFACE.

THE Code of Regulations and Acts in force in the territories under the Presidency of Bengal has recently been published, in the chronological order and original form of enactment, with the omission of the rescinded and extinct portions, and with the additions of references, notes, and indexes. The object of the present work is to present the rules of each separate topic of legislation so classified and arranged that, without the labour and hindrance of following out the references and searching the index in order to trace a succession of amending and modifying provisions scattered over the whole length of the Code, the law in respect of each subject might be read as it actually exists. The necessity of such a work as an assistance to future legislation, as a means to discover what needs alteration and amendment, as a basis of consolidation, as a ready aid in comparing proposed emendations with existing provisions, was so apparent, that the Honourable Court of Directors commissioned the editor of the Code to undertake the task. In execution he has found it to occupy more time, though he has not relaxed in the work, and to be fraught with more difficulty, notwithstanding his previous experience, than he had anticipated. If it is not now so perfect as he would desire, it is because, for the satisfactory execution of such a work, it would be necessary that the whole should have been completed before a page was committed to press; but the time for such a course could not be spared; and to expedite the completion, two presses have been simultaneously employed on its different portions.

The larger classification of subjects was easily settled, but their subdivision was not so readily arranged. In the Judicial portion, both Civil and Criminal, the greatest changes had occurred in the long period which the Code embraced, and many subjects presented themselves in a variety of aspects, and under much diversity of treatment, while the early provisions framed for the original institutions remained partially applicable to the altered condition in which the later legislation had placed them: such complications compelled repeated attempts before the arrangement could be satisfactorily settled. Many minute modifications of sentences, which are not apparent without comparison with the original passages, have required in their adaptation much time, care, and deliberation.

The principles on which the work proceeded were, to bring together from all parts of the Code whatever pertained to the subject of each division in the arrangement, to exclude all rescinded and inoperative matter, and all portions which had merely directed or occasioned such extinction, and also the recitals and repetitions which, in the later enactments, had been introduced to explain the

grounds of proposed modifications. the new provisions being here actually substituted in the places before occupied by the superseded rules, the explanations could only serve to encumber the text. When duties had been transferred from one officer, or class of officers, to another, they are treated throughout as appertaining to the functionary on whom they were last devolved. Where a rule had been framed to apply to more than one person or duty, which it had been found necessary to arrange under different subdivisions, such rule is given *in extenso* where it first applies, and is referred to in the places where it subsequently occurs. Thus, for example, in the rules respecting the uncovenanted judges, their powers are for the greater part alike, though the higher grades, and especially the highest, have jurisdiction and authority peculiar to themselves. The rules common to the three grades are set forth as respecting the first, and referred to as regarding the second and third.

Rules were occasionally enacted which had a large and sweeping operation over previous provisions of very extensive application; such, for example, are those of Regulation VII., 1829, which released the judicial authorities from furnishing at stated periods many formal returns before prescribed by various Regulations; such also were those of Regulation II., 1834, which substituted imprisonment for corporal punishments and fine in lieu of labour, with certain exceptions. In all such cases, the provisions affected by the latter law have been modified so as to conform to that now in force. When any matter had been the subject of various treatment in successive enactments, the final result is applied to the substantive rule.

If it should be found that some provisions are retained which in practice are superseded by circular orders of Government, or constructions of the Sudder Court, it must be observed that the compiler of this work had only to deal with the legislative enactments as he found them in the code. Where so much complexity existed as had necessarily arisen in the varied legislation of sixty years, seldom simplified by consolidation, such directions were absolutely required for the guidance of public officers; the earlier Regulations often contained rules of detail, which would have been better left to be settled and altered by the controlling authorities, in the various departments of administration, and practical changes have no doubt, in many instances, been effected without a corresponding modification of the Regulations themselves; but, to incorporate them in the present work, would have been a departure from the undertaking with which the compiler was charged, and to have ventured on so extensive and uncertain a field of operation, at a distance from the sphere of actual administration, would have been an attempt dangerous to be made.

The rules which modify and apply the Mahomedan Law to the administration of Criminal Justice in the British Courts, partly lay down general principles, and partly give specific directions for the application of those principles to the punishment of crimes of different degrees of atrocity. The most convenient mode

of dealing with those provisions seemed to be to arrange what belongs to the former class, under a general head in the "Criminal" division, entitled "Mahomedan Law," and to leave the latter class among the rules for the guidance of the Courts in dealing with "Specific Offences."

It has been endeavoured to make the division and arrangement sufficiently particular to be orderly and clear, without being too minute. In a few instances the principles of separation which have been indicated above have been necessarily departed from, as the subject would not permit their observance without greater inconvenience than advantage; but the exceptions will be readily perceived, and will not, it is hoped, create any difficulty in the use of the work. Thus, for example, the rules respecting the appointment, removal, and responsibilities of public officers have all been kept together, relating, as they do, collectively to officers in the various departments of the service; so also, under the head of "Civil Judicature," where generally the procedure in original suits and appeals is separately arranged, the rules in regard to paupers, in both stages, are placed together under the head "Pauper Suits," because the whole procedure in respect of paupers is particular and exceptional, and the rules regarding their appeals are few, and in their construction intimately blended with those for the original suits.

Occasional notes are introduced in the course of the work, where any doubt or difficulty appeared to require observation or explanation.

Rules of local application were a source of some difficulty to deal with. The original Regulations of the Code of 1793 had been extended, as far as regards the judicial and general branches, with little but verbal alterations. The principle applied, therefore, was to cast the exceptional rules of those divisions into an appendix. The revenue Regulations, however, required a different mode of dealing with them, because the revenue administrations of Benares and the Ceded and Conquered Provinces were characterized by essential differences, affecting in various ways many of the rules which related to the parallel matters in the original Code. The particular mode in which this branch of legislation is dealt with is fully stated in the prefatory note to the section "Land Revenue."

The work has been so prepared as to be used either as a whole, or in separate portions. To most of the general divisions there is prefixed a note explanatory of its structure and arrangement, a table of contents, and also a numerical table exhibiting all the rules throughout the Code which related to the subject-matter of the division. In the latter table is given the paragraph number by which each rule that is retained will be found, whether singly or in amalgamation with others, and the provisions which have been left out of the arrangement are marked with the reason for their omission.

To assist in reference when the work is used as a whole, and to show at one view the arrangement both in its general classification and its subordinate divisions,

a table of all enactments incorporated in the arrangement is added; and with a view to afford a ready means of ascertaining under which division any particular subject is arranged, a general index of matters is subjoined.

It has been the anxious desire of the compiler that the work should be easy of reference, and satisfactorily complete, and he can truly say that he has spared no pains to render it so, with what success he must leave to be decided by those for whose use it is designed. It was a great satisfaction to him to learn that a sketch of the plan on which it was proposed to execute the work, and a specimen portion, having been officially brought under the notice of the Hon. B. Peacock, the law member of the Legislative Council at Calcutta, that gentleman was pleased to approve of the plan, and to add that a work completed according to that plan would be very useful. Encouraged by this opinion from so high an authority, the compiler proceeded with more cheerful spirit to the completion of a task which he trusts will be more useful in the result than it was enlivening in its execution.

In part of the work the compiler has had assistance from his talented and long experienced coadjutor, Mr. John Dowson, one of the Assistant Secretaries of the Royal Asiatic Society and Professor of Hindustani in University College, London, whose brilliant progress in mastering, and ability and success in imparting the knowledge of four Oriental languages, is scarcely more remarkable than his aptitude for public business, his clearness in apprehending, and his accuracy in retaining the varied knowledge which his industry has enabled him to gather. Had his important duties as a teacher left more of his time at disposal, the present work would have been more expeditiously completed.

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# ADDENDA.

THE following Sections were omitted in their places, having dropped out in settling the arrangement. The omission was discovered in the final comparison of the lists.

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Place in "CIVIL JUDICATURE," after paragraph 269, page 50:—

The Civil Courts are to appropriate one day, or two or more days when they shall deem it necessary, in each week, for the trial of all suits between Government or the collectors, and proprietors or farmers of land, regarding demands on account of the public revenue assessed upon the lands, or advances for tuccavy, water-courses, reservoirs, or embankments, and also suits between proprietors and farmers of land, and dependent talookdars, regarding revenue, or between any of the above descriptions of persons and their under-farmers and ryots, regarding rent, or the rates of pottahs, or advances for tuccavy, water-courses, reservoirs, or embankments. The Courts are to proceed to the trial of the causes above mentioned on the days so allotted, without regard to any other descriptions of causes that may have been previously filed, which are to be tried on separate days.—Reg. III., 1794, sec. xxii.

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Place in "CIVIL JUDICATURE," after paragraph 63, page 9:—

Such parts of the existing Regulations as declare the collectors of revenue to be amenable to the Zillah and City Courts for any acts done by them in their official capacity, in opposition to the Regulations, shall be held applicable to any magistrate, or joint magistrate, or assistant to a magistrate, who may be employed in the collection of the public revenue.—Reg. IV., 1821, sec. vi., cl. 1.

Provided always, that if such individual shall, at the same time, hold the office of judge of the zillah or city in which the act in question may have been committed, such act shall not be cognizable by the Zillah or City Gourt, *but by the Provincial Court of the division in which such zillah or city may be included.*—Reg. IV., 1821, sec. vi., cl. 2.

In the institution of suits for the recovery of the public revenue, or in any case in which the institution of a suit by the collector in the Zillah or City Courts is authorized or directed by the Regulations, a magistrate or joint magistrate, or assistant to a magistrate, employed in the collection of the revenue, not being himself in charge of the office of judge of a Zillah or City Court, shall proceed according to the Regulations already in force for the guidance of the collectors under similar circumstances.—Reg. IV., 1821, sec. vii.

It shall be competent to the Governor-General in Council to vest the whole or any portion of the jurisdiction and powers of a civil judge and of a collector of revenue in the hands of the same officer whenever, and so long as such an arrangement may, for special purposes, appear expedient.—Reg. V., 1825, sec. iii., cl. 1.

Provided that in all such cases the judge shall be precluded from trying and determining in his Civil Court any claims which may be preferred by individuals for acts done by him in his official capacity of collector, but such claims shall, as already provided for by the second clause of Section VI., Regulation IV., 1821, be cognizable in the *Provincial Court of the division*, and not in the Zillah or City Court.—Reg. V., 1825, sec. iii., cl. 2.

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Place in "LAND REVENUE," after paragraph 153, page 316:—

No native of the territories subject to the Government of the East-India Company, nor any natural-born subject of her Majesty, resident therein, is, by reason only of his religion, place of birth, descent, colour, or any of them, disabled from holding the office of deputy collector, under Regulation IX., 1833.—Act XV., 1843, sec. vi.

The following Act was received from India after the Section to which it would belong had been printed, some of the provisions of which it modifies. Its place would be in the Section "CRIMINAL JUDICATURE," page 172.

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Whereas the provisions of Section III., and Section VII., of Regulation XI., 1831, have been found inconvenient, and whereas it is expedient that Regulation XI., 1831, as amended by this Act, should be extended to the whole of the Provinces of Benares; it is enacted as follows:—

I. Section III. and VII., Regulation XI., 1831, of the Bengal code are hereby repealed.

II. Wherever any Tehseeldar shall have Police jurisdiction under the provisions of Section II. of the said Regulation XI., 1831, every Darogah of Police hereafter appointed within the local limits of the Police jurisdiction of such Tehseeldar, shall be subordinate to, and subject to the control of such Tehseeldar, in his capacity of Chief Police Thannadar.

III. Regulation XI., 1831, as amended by this Act, shall extend to the whole of the Province of Benares, and all powers vested by the said Regulation in the Governor-General in Council, may be exercised by the Lieutenant-Governor of the North-Western Provinces.—Act XVI., 1854.

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# ERRATA.

In "MILITARY," page 1, for "1810, XX., vii. to xxi., | 181 to 195 | *Repealed*," read—

"1810, XX., vii. to xxi. | 181 to 195 |
xxii. to xxv. | *Repealed*;"

For "1816, XV., ii. to x.," read—

"1816, XV., ii. to xi.;" and omit "xi. | | *Omitted*, &c."

In "LAND REVENUE," page 56, paragraph 254, for "*paragraphs* 224 and 225," read "*paragraphs* 228 to 230."

In "CUSTOMS, COMMERCE, &c.," page 5, add to paragraph 2, "Reg. IX., 1810, sec. vi., cl. 1."

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# PREFATORY NOTE

## TO THE SECTION "CIVIL JUDICATURE"

In arranging this portion of the enactments of the Bengal Code, considerable difficulty has been experienced in dealing with the general, though gradual changes effected in the number and powers of the Civil Courts, and the relation towards each other of those which now exist These changes have practically modified many more sections and parts of sections than have been either formally repealed, or declared subject to modification by specific enactments, and they had to be introduced in the places which they severally affected.

The present collection begins with the enactments establishing and defining the powers of the several Courts of Original Jurisdiction; these are followed by the Rules of Procedure, first in the Zillah Courts as the general model to which the practice of the other courts is chiefly made to conform, and then the special rules which modify the practice of the Courts of the Uncovenanted Judges.

Next in order come enactments which lay down certain principles for the administration of justice, or which provide for modes of trying original suits not coming within the ordinary operation of the courts. Then follow provisions relative to Special Suits in which the procedure is peculiar, and exceptional.

The next great division contains the rules respecting Appeals; and first as to Regular Appeals, it is shown to and from what jurisdictions appeals lie; the rules of procedure common to both the Courts of Appeal are then given. These are followed by the powers and duties of the Sudder Dewanny Adawlut. This division closes with the rules for Special or Second Appeals, those to the Queen in Council, and Summary Appeals.

After the above is placed a collection of rules which have operation equally in Courts of Original and Appellate Jurisdiction; among these are the enactments respecting Interest, and the conditional sales denominated Bye-bil-wuffa These are followed by rules which affect the Succession to Landed Property, and the Protection of the Property of Deceased Persons from wrongful possession. Next are placed the rules for the Registry of Deeds, including the preparation of deeds by Cauzies of Towns.

The rules for the appropriation of Treasure found, and those regarding Pleaders and Stamps, close this Section

Rules having local operation only are added as an Appendix.

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Some rules which are common to the Civil and Criminal Courts will form a Section of themselves, at the head of which will be placed those which define the constitution and powers of the SUDDER COURTS exercising a joint jurisdiction, civil and criminal, as Supreme Courts, Dewanny and Nizamut.

# CIVIL JUDICATURE.

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# CIVIL JUDICATURE.

## CIVIL COURTS.

### CONSTITUTION AND JURISDICTION.

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GOVERNMENT OF BENGAL

# CIVIL JUDICATURE.

## CIVIL COURTS.

### CONSTITUTION AND JURISDICTION.

#### MOONSIFFS.

1. The selection and number of moonsiffs shall be regulated in such manner as the Governor-General in Council may be pleased to direct, and no person by reason of birth or descent, or of class, or of religious persuasion, shall be incapable of being a moonsiff; and every moonsiff being a British born subject of the Queen, or a descendant of such British born subject, shall, in respect of all acts done by him as such moonsiff, be liable to the same proceedings, and shall be amenable to the jurisdiction of the same tribunals, as if he were not of British birth or descent.—Reg. V, 1831, secs. iii and xiii; Act VIII, 1836.

2. Every person who may in future be appointed to the office of moonsiff will be furnished by the judge with a sunnud, and previously to entering upon the duties of his office, he shall make and subscribe a solemn declaration according to the following form:

"I, A. B., appointed to the office of moonsiff of ———, do solemnly declare, that in the trial and determination of all suits which may come under my cognizance, and in the execution of all the other duties of my office, I will act according to the best of my abilities and judgment, without partiality, favour, or affection; that I will not directly or indirectly receive, or knowingly allow any other person to receive any money, effects, or property, on account of any suit that may come before me for decision, or on account of any public duty which I may have to execute. I will strictly adhere to all the rules prescribed for my guidance; and I will in all respects, truly and faithfully execute the trust reposed in me."—Reg. XXIII, 1814, sec. xi; Reg. XVIII, 1817, sec. ii.

3. Whenever a sunnud may be granted to a moonsiff under the preceding paragraph, a copy of it, under the official seal and signature of the judge, shall also be delivered to him, in order that it may remain permanently affixed in some conspicuous place in his cutcherry.—Reg. XXIII, 1814, sec. xii.

4. The moonsiff shall, in lieu of fees and other compensation, receive from Government such monthly allowances as may be fixed by the order of the Governor-General in Council.—Reg. V, 1831, sec. xii, cl. 2.

5. The local jurisdiction of moonsiffs shall be so arranged as to correspond with those of the thannahs, or local police jurisdictions, and shall have the same local denomination as that of the corresponding police jurisdiction.—Reg. XXIII, 1814, sec. vi, cls. 1 and 2.

6. The Sudder Courts are empowered to include two or more entire police jurisdictions within that of one moonsiff, and to abolish any of those offices whenever local or special circumstances may, in their judgment, render it expedient. They are further at all times authorised to cause the cutcherry of a moonsiff to be removed from the town or village in which it may be held, to any other town or village within the limits of the same moonsiff's jurisdiction which may appear more convenient.—Reg. XXIII, 1814, sec. vii.

7. Upon the death, removal, or resignation of any sudder ameen or moonsiff, the zillah judge shall, if necessary, immediately nominate another person in his room, and shall cause all papers in the causes depending before the late sudder ameen or moonsiff to be delivered over to his successor, or otherwise to be disposed of as circumstances may require.—Reg. XXIII, 1814, secs. xlviii and lxxiii.

8. In the removal of sudder ameens and moonsiffs, it shall not be necessary, in all cases to require full and legal proof of disqualification; but whenever a zillah or city judge shall have reason to believe that any principal or other sudder ameen or moonsiff within his jurisdiction is disqualified by neglect of duty, incapacity, notorious corruption, or other gross misconduct, he shall state the grounds of his opinion to the commissioner of revenue and circuit for the division, and provided that officer concur with him in opinion, they shall jointly submit a report thereof for the consideration and orders of the Governor-General in Council, if the report relates to a

principal sudder ameen or sudder ameen, or to the Sudder Dewanny Adawlut, if the report relates to a moonsiff, through the secretary to Government in the judicial department; and it shall be competent to the Governor-General in Council, or Sudder Dewanny Adawlut, as the case may be, should they be of opinion that sufficient grounds exist, to direct the immediate removal of such principal, or other sudder ameen, or moonsiff; provided, however, that no principal or other sudder ameen or moonsiff shall be removed from office without the sanction of the Governor-General in Council, or the Sudder Dewanny Adawlut.—Reg. V, 1831, sec. xxvi, cls. 1 and 2.

9. Provided also, that it shall be competent to a judge of a Zillah or City Court, whenever he may see urgent necessity for so doing, to suspend any principal sudder ameen, sudder ameen, or moonsiff, within his jurisdiction, without any previous communication with the commissioner of the division; and in all cases in which the commissioner of the division may dissent from the judge as to the propriety of removing any of the officers above named, it shall be competent to the judge to submit his own opinion to that effect to the Governor-General in Council, or the Court of Sudder Dewanny Adawlut, as the case may be; such report, however, to be accompanied by a copy of the dissent which the commissioner may deem it necessary to record on the occasion. —Reg. V, 1831, sec. xxvi, cl. 3.

10. Provided also, that it shall be competent to any commissioner of revenue and circuit to recommend, on grounds assigned, the removal of any moonsiff, sudder ameen, or principal sudder ameen; but every such recommendation shall be previously submitted through the judge of the zillah or city, whose assent or dissent shall accompany the recommendation to the Court of Sudder Dewanny Adawlut, or the Governor-General in Council, as the case may be.—Reg. V, 1831, sec. xxvi, cl. 4.

11. Moonsiffs and sudder ameens shall be liable to an action in the Civil Court for corruption in the discharge of their trust, or for extortion, or for any oppressive or unwarranted act of authority; and upon proof of the charge to the satisfaction of the judge, he shall cause the offender to pay such damages and costs to the party injured as may appear to be equitable. —Reg. XXIII, 1814, sec. x, cl. 1, and sec. lxvii.

12. Principal sudder ameens, sudder ameens, and moonsiffs, shall be liable to a criminal prosecution for corruption, extortion, or other misdemeanor committed by them in the discharge of any part of their duty, and on conviction before the Sessions Court, shall be subject to fine and imprisonment proportionate to the nature and circumstances of the case; but no principal sudder ameen, sudder ameen, or moonsiff, shall be liable to be prosecuted for want of form, or for error in his proceedings or judgments, nor shall any process be issued against any principal sudder ameen, sudder ameen, or moonsiff, who may be charged with corruption, extortion, or any oppressive and unwarranted act of authority, unless the zillah or city judge shall be previously satisfied by sufficient evidence that there is reason to believe the charge to be well founded.—Reg. XXIII, 1814, sec. x, cl. 2, and sec. lxvii; and Reg. V, 1831, sec. xxvi, cl. 5.

13. No person whatever shall, by reason of place of birth, or by reason of descent, be, in any civil proceeding whatever, including proceedings connected with arrears or exactions of rent, exempted from the jurisdiction of the courts of the moonsiffs.—Act III, 1839, sec. iii; Act VI, 1843, sec. vii.

14. Persons invested with the powers of moonsiff shall be competent to receive, try, and determine suits of every description, if the landed or other real property to which the suit may relate shall be situated, or if in all other cases, the cause of action shall have arisen, or the defendant, at the time when the suit may be commenced, shall reside as a fixed inhabitant, within the limits to which their respective jurisdictions may extend. For money, or other personal property, not exceeding in amount or value the sum of three hundred rupees, provided the claim include the whole amount of the demand arising from the cause of action. For the property or possession of land, or other real property. Provided, however, that no moonsiff shall try any suit in which he himself, or any of his relatives or dependants shall be a party.—Reg. V, 1831, sec. v, cls. 1 to 3; Act VI, 1843, sec. viii.

15. Moonsiffs who may be appointed under the provisions of Regulation V, 1831, shall be competent, in addition to the authority possessed by moonsiffs generally, of receiving, trying, and deciding claims to arrears of rent preferred by regular suit, in like manner to dispose of all claims preferred by under-tenants, or others who may be desirous of resisting the distraint of their property, or the attachment of their persons, or who may prefer a claim to damages on account of such acts.—Reg. VIII, 1831, sec. xi.

16. Moonsiffs are prohibited from receiving or trying any suits which persons may desire to prefer to them in *formâ pauperis*.*—Reg. XXIII, 1814, sec. xiii, cl. 3.

* Reg. V, 1831, sec. v, cl. 5 repealed this prohibition, and added that it should be competent to the judges to refer such suits to the moonsiffs, but that clause is repealed by Act XXXVI, 1852, sec. 1.

17. Regular suits instituted to set aside the summary judgments of collectors for land rent are declared cognizable, according to their amount, by the principal sudder ameens, sudder ameens, and moonsiffs.—Reg. VII, 1832, sec. x.

18. In cases where a moonsiff cannot try a suit because he himself, or any of his relatives or dependants, is a party to the suit, it shall nevertheless be competent to the moonsiff to receive the suit, and forward it to the judge of the zillah to which he is subordinate, who may thereupon refer the same for trial and decision to any other moonsiff of the district.—Act VI, 1843, sec. ix.

19. The zillah and city judges may, for any reason that may appear to them sufficient, bring up for trial before them, or the sudder ameens, any causes that may be depending before the moonsiffs, or may transfer such causes from one moonsiff to another.—Reg. XXIII, 1814, sec. xlvii.

20. All suits within the competency of a moonsiff to decide, shall ordinarily be instituted in the Moonsiffs' Courts. Provided, nevertheless, that it shall be competent to a zillah or city judge to receive such suits, and to try them himself, or to refer them for trial to any other court subordinate to his authority, whenever he may see sufficient reason for so doing.—Reg. V, 1831, sec. vii.

21. Whenever a zillah or city judge, in the exercise of the discretion vested in him by the preceding paragraph, shall refer for trial to a sudder ameen, or principal sudder ameen, a suit within the competency of a moonsiff to decide, such suit shall be subject to the same rules in regard to stamp duties, and to the same rules in regard to appeal as the said suit would have been subjected to had it been received and tried by the moonsiff in the first instance.—Act XXV, 1837, sec. v.

### SUDDER AMEENS.

22. The selection and number of sudder ameens shall be regulated in future in such manner as the Governor-General in Council may be pleased to direct. No person shall by reason of place of birth or descent, or of class or of religious persuasion, be incapable of being a sudder ameen, and every sudder ameen being a British born subject of the Queen, or a descendant of such British born subject shall in respect of all acts done by him as such sudder ameen be liable to the same proceedings, and shall be amenable to the jurisdiction of the same tribunals as if he were not of British birth or descent.—Reg. V, 1831, sec. xiii; Act VIII, 1836.

23. The Mahomedan and Hindoo law officers of the Zillah and City Courts shall not be deemed sudder ameens *ex officio*, but shall be eligible to the office like other individuals; and whenever they may be so elected, the judge shall generally refer such cases as are likely to involve questions of Hindoo Law to the Hindoo Law officer, and of Mahomedan Law to the Mahomedan Law officer.—Reg. XXIII, 1814, sec. lxix; Reg. V, 1831, sec. xiv, cl. 2.

24. Sunnuds shall be granted to sudder ameens under the seal and signature of the judge, drawn up according to a prescribed form.—Reg. XXIII, 1814, sec. lxv.

25. Every person who may in future be appointed to the office of sudder ameen shall, previously to entering upon the execution of the duties of his situation, make and subscribe a solemn declaration before the judge of the zillah or city in which he may be appointed to officiate, according to the following form:—

I, A. B., appointed to the office of sudder ameen of the zillah or city of ———, do solemnly declare, that in the trial and determination of all suits which may come under my cognizance, and in the execution of all the other duties of my office, I will act according to the best of my abilities and judgment, without partiality, favour, or affection; that I will not directly or indirectly receive, or knowingly allow any other person to receive, any money, effects or property, on account of any suit that may come before me for decision, or on account of any public duty which I may have to execute. I will strictly adhere to all the rules prescribed for my guidance; and I will, in all respects, truly and faithfully execute the trust reposed in me.—Reg. XXIII, 1814, sec. lxvi; Reg. XVIII, 1817, sec. ii.

26. The sudder ameens shall in lieu of fees and other compensation receive from Government such monthly allowances as may be fixed for them respectively by the orders of the Governor-General in Council.—Reg. XIII, 1824, sec. ii, cl. 2.

27. *Removal of sudder ameens.*—Reg. XXIII, 1814, sec. xlviii, and lxxiii; Reg. V, 1831, sec. xxvi, cls. 1 to 4. (See "MOONSIFFS" paragraphs 7 to 10.)

28. *Sudder ameens liable to prosecution in the Civil and Criminal Courts.*—Reg. XXIII, 1814, sec. x, cls. 1 and 2, and sec. lxvii; Reg. V. 1831, sec. xxvi, cl. 5. (See "MOONSIFFS," paragraphs 11 and 12.)

29. No person whatever, shall, by reason of place of birth, or by reason of descent be, in any civil proceeding whatever, exempted from the jurisdiction of any sudder ameen.—Act XI, 1836, sec. ii.

30. Whenever there shall be more than one principal sudder ameen, or more than one sudder ameen, attached to the court of any zillah or city judge, and not having any special local jurisdiction, it shall be the duty of such judge to appoint from time to time the several moonsiffs' divisions, which shall constitute the special local jurisdiction of each of such principal sudder ameens and sudder ameens, and that each of such principal sudder ameens and sudder ameens shall be empowered to take cognizance of all such suits as are mentioned in paragraph 39, provided the landed or other real property to which the suit may relate shall be situated, or in all other cases the cause of action shall have arisen, or the defendant at the time when the suit may be commenced shall reside as a fixed inhabitant within the limits of such local jurisdiction as aforesaid. —Act IX, 1844, sec. iii.

31. The zillah and city judges are declared competent to refer to any of the sudder ameens subject to their authority, for trial and decision, any original suits instituted in their courts for money or other personal property, or for the property or possession of land, or of other real property, the amount or value of which, calculated according to the rules specified in No. 8 of the Schedule (B.) referred to in Section XVII, Regulation X, 1829, may not exceed 1,000 rupees. Provided, however, that no suit shall be referred for trial to a sudder ameen, in which he himself or his relatives, or dependants, shall be a party.—Reg. V, 1831, sec. xv, cl. 2.

32. (*Suits regarding rent cognizable by sudder ameens.*)—Reg. VII, 1832, sec. x. (See "MOONSIFFS," paragraph 17.)

33. When a plaintiff may have been admitted by the judge of a Zillah or City Court to institute his suit in *formâ pauperis*, under the rules for paupers contained in Regulation XXVIII, 1814, and the suit may, in other respects, be referrible to a sudder ameen, it shall be competent to the judge to refer the same for trial and decision by one of the sudder ameens attached to the Zillah or City Court, or stationed in any other part of his jurisdiction; and the suit so referred shall be proceeded upon by the sudder ameen as in other suits referred to him, subject to the provisions contained in Regulation XXVIII, 1814.—Reg. XIII, 1824, sec. iv, cl. 2.

34. The provisions in the Regulation above mentioned respecting pauper defendants in original suits, as well as those respecting pauper appellants and respondents in appealed cases, shall likewise be considered applicable to defendants in original suits, and to appellants and respondents in appealed cases referred for trial to sudder ameens; but no person shall be admitted by a sudder ameen to prosecute or defend an original suit or appeal, in *formâ pauperis* without the written order of the zillah or city judge, authorizing the admission of the party as a pauper under the provisions of Regulations XXVIII, 1814.—Reg. XIII, 1824, sec. iv, cl. 3.

35. The judges who are empowered by Section V. of the Regulation above mentioned to employ an authorized officer of the court in taking the examinations of parties and witnesses for the purposes therein specified, may however employ the sudder ameens attached to their respective courts, in taking such examinations and generally in making the inquiries provided for by that Regulation. But no final order for the admission of a pauper shall be passed by a sudder ameen, nor shall the commitment of pauper plaintiffs to close custody, in pursuance of Section XI, Regulation XXVIII, 1814, be carried into execution by a sudder ameen, without the sanction of the judge.—Reg. XIII, 1824, sec. iv, cl. 4.

36. The provisions of Section XI, Regulation II, 1821, and of Clauses 2 and 3, Section II, Regulation III, 1824, are declared applicable to principal sudder ameens, or sudder ameens who may be stationed at any other place than the fixed station of the Zillah or City Court, or with jurisdiction within the limits of any magistracy, joint magistracy, collectorship, or deputy collectorship.—Reg. VII, 1832, sec. xvii.

NOTE.—The following are the provisions referred to in the preceding paragraph, with the addition of clause 1, sec. ii, Reg. III, 1824.

37. It shall be competent to the Governor-General in Council to extend the jurisdiction which may be vested in a *register*, with regard to the cognizance and trial of regular suits under the rules in force upon the subject, to those portions of other districts in which such register may be authorized to exercise the powers of joint magistrate.—Reg. III, 1824, sec. ii, cl. 1.

NOTE.—This first clause is not extended by section xvii, Reg. VII, 1832, to principal sudder ameens and sudder ameens.

The provisions contained in the existing Regulations for the guidance of principal sudder ameens and sudder ameens stationed at a distance from the sudder station shall be equally applicable to the trial and decision of suits which may be instituted before them, or referred to them, under the foregoing paragraph.—Reg. III, 1824, sec. ii, cl. 2; Reg. VII, 1832, sec. xvii.

NOTE.—This general expression, "existing Regulations" in the above second clause would seem necessarily to include the provisions of Regulation XXIV, 1814, and secs. xi, xii, and xiii of Regulation II, 1821, referred to in the preceding first clause, as they contained the rules "for the guidance of registers stationed at a distance from the sudder station;" and though many of those rules have been superseded by later enactments, they are all subjoined, those which are inoperative are noted in brief—those which are in force, or respecting which a doubt may exist, are given in *extenso*.

(*Principal sudder ameens and sudder ameens to furnish reports*).—*Reg. III*, 1824, *sec. ii, cl.* 3. Superseded by Reg. VII, 1829.

*Ministerial act of registers.*—Reg. XXIV, 1814, sec. xi.—*Repealed by sec. i, Act XIX*, 1853.

(Only declares modifications.)—Reg. XXIV, 1814, sec. xii; cl. 1, unnecessary.

(*Governor-General in Council may appoint one or more additional principal sudder ameens, or sudder ameens.*)—Reg. XXIV, 1814, sec. xii, cl. 2. Superseded, as regards principal sudder ameens by sec. xvii, Reg. V, 1831; and as regards sudder ameens by sec. xiii, Reg. V, 1831.

It shall further be competent to the Governor-General in Council to station the principal sudder ameens, or sudder ameens, at any place or places within the jurisdiction of a Zillah or City Court of Dewanny Adawlut; and whenever a principal sudder ameen, or sudder ameen, may be stationed at any place not being the sudder station of the Zillah or City Court, the sittings and proceedings of such principal sudder ameens and sudder ameens shall be held in a convenient and open court room, to be provided for that purpose at such place as Government may direct.—Reg. XXIV, 1814, sec. xii, cl. 3; Reg. VII, 1832, sec. xvii.

(*Issue of process.*)—Reg. XXIV, 1814, sec. xii, cl. 4. Superseded as regards principal sudder ameens by cl. 5, sec. xviii, Reg. V, 1831; and as regards sudder ameens by cl. 4, sec. xv, Reg. V, 1831.

The judges of the Zillah or City Courts, and the public officers acting under them, are required to aid and support the execution of any process which may be issued by the principal sudder ameens and sudder ameens; and any disobedience or resistance to process so issued is hereby declared to be liable to the same penalties as disobedience or resistance to the process of a Zillah or City Court.—Reg. XXIV, 1814, sec. xii, cl. 5; Reg. V, 1831, sec. xv, cl. 4, and sec. xviii, cl. 5.

The judicial powers of a principal sudder ameen or sudder ameen who may be stationed at a place not being the station of the zillah or city Dewanny Adawlut, under the provisions of this section, shall be the same as those of the principal sudder ameen or sudder ameens employed at the station of the Zillah or City Courts, viz., to try and decide according to the Regulations in force, any suits or matters which may be referred to them by the zillah or city judges, and which may be cognisable by such principal sudder ameens or sudder ameens, *either* in their ordinary jurisdiction, *or under the special powers with which they may be vested, in conformity with section* ix *of this Regulation.*—Reg. XXIV, 1814, sec. xii, cl. 6; and Reg. VII, 1832, sec. xvii.

NOTE.—*Sec. ix, Reg. XXIV*, 1814, *has not been extended to principal sudder ameens and sudder ameens.*

(May be empowered to try summary suits for arrears of revenue.)—Reg. XXIV, 1814, sec. xii, cls. 7 and 8. *Superseded by the general transfer of such summary suits to the collectors.*

(Judge to refer to register suits originating in his own jurisdiction as joint or assistant magistrate.)—Reg. XXIV, 1814, sec. xii, cl. 9. *Does not apply to principal sudder ameens and sudder ameens.*

(Periodical reports to be furnished to Zillah Court.)—Reg. XXIV, 1814, sec. xii, cl. 10. *Superseded by Reg.* VII, 1829.

*Miscellaneous Duties of principal sudder ameens.*—Reg. XXIV, 1814, sec. xii, cls. 11 and 12. (Given under "PROCEDURE." See paragraphs 227 and 228 of that head.)

(Declares modifications.)—Reg. II, 1821, sec. xi, cl. 1. *Unnecessary.*

(May receive original suits.)—Reg. II, 1821, sec. xi. cl. 2. *Superseded by the powers given in that respect to principal sudder ameens and sudder ameens generally by sec i, Act IX*, 1844.

(Register to report suits preferred. Judge to determine whether the case shall be tried by the register or by himself.)—Reg. II, 1821, sec. xi, cl. 3. *Superseded by sec. xxiv, Reg. V*, 1831, *and sec. i, Act ix*, 1844.

(Execution of decrees of sudder ameen and moonsiff by register.)—Reg. II, 1821, sec. xii. *Superseded by the powers granted to those officers to execute their own decrees to principal sudder ameens by sec. xxii, Reg. V*, 1831, *and to sudder ameens by sec. vii, Reg. VII*, 1832.

(Registers to be paid by salaries not by fees.)—Reg. II, 1821, sec. xiii. *Superseded by the rules which give salaries to principal sudder ameens and sudder ameens.*

38. (*Zillah judge may bring up causes depending before the moonsiff for trial before the sudder ameen.*)—Reg. XXIII, 1814, secs. xlvii, and lxxiii. (See "MOONSIFFS," paragraph 19.)

39. All suits within the competency of a principal sudder ameen or sudder ameen to decide, shall ordinarily be instituted in the courts of those officers respectively.—Act IX, 1844, sec. i.

40. Provided nevertheless, that it shall be competent to a zillah or city judge to withdraw such

suits from the court in which they may have been instituted, and to try them himself, or to refer them for trial to any other court subordinate to his authority, and competent in respect to the value of the suit whenever he may see sufficient reason for so doing.—Act. IX, 1844, sec. ii.

41. Whenever a zillah or city judge shall refer for trial to a principal sudder ameen a suit within the competency of a sudder ameen to decide, such suit shall be subject to the same rules in regard to stamp duties, and to the same rules in regard to appeal as the said suit would have been subjected to had it been referred to and tried by the sudder ameen in the first instance.—Act XXV, 1837, sec. vii.

42. Whenever the zillah and city judges shall retain, on their own files any original suits which they are authorized by this Regulation to refer to a sudder ameen, or principal sudder ameen, they shall record their reasons for doing so upon their proceedings.—Reg. V, 1831, sec. xxiv.

PRINCIPAL SUDDER AMEENS.

43. It shall be competent to the Governor-General in Council to appoint to any zillah or city jurisdiction one or more principal sudder ameens with the powers hereinafter specified. No person by reason of place of birth, or by reason of descent, or of class or persuasion, shall be incapable of being a principal sudder ameen, and every principal sudder ameen being a British born subject of the queen, or a descendant of such British born subject shall, in respect of all acts done by him, as such principal sudder ameen, be liable to the same proceedings, and shall be answerable to the jurisdiction of the same tribunals as if he were not of British birth or descent.—Reg. V, 1831, sec. xvii, cls. 1, and 2; Act VIII, 1836.

44. The persons selected for the office shall be appointed by the Governor-General in Council, and shall receive their sunnuds or commissions from Government, under the signature of the secretary in the judicial department.—Reg. V, 1831, sec. xvii, cl. 2.

45. The principal sudder ameens will receive such monthly allowances as may be fixed by the Governor-General in Council.—Reg. V, 1831, sec. xvii, cl. 3.

46. Every person appointed to the office of principal sudder ameen shall, previously to entering upon the execution of the duties of his situation, make and subscribe, before the judge of the zillah or city in which he may be employed, the solemn declaration required by section ii, Regulation XVIII, 1817, to the same effect as the oath before required.—Reg. V, 1831, sec. xvii, cl. 4; Reg. XVIII, 1817, sec. ii, cl. 2.

47. (*Removal of principal sudder ameens.*)—Reg. V, 1831, xxvi, cls. 1 to 4. (See "MOONSIFFS," paragraphs 8 to 10.)

48. (*Principal sudder ameens liable to prosecution in a criminal court.*)—Reg. V, 1831, sec. xxvi, cl. 5. (See "MOONSIFFS," paragraph 12.)

49. No person whatever, shall, by reason of place of birth, or by reason of descent, be, in any civil proceeding whatever, exempted from the jurisdiction of any principal sudder ameen.—Act XI, 1836, sec. ii.

50. (*Zillah judge when to appoint principal sudder ameen to moonsiff's jurisdiction—what suits such principal sudder ameen to try.*)—Act. IX, 1844, sec. iii. (See "SUDDER AMEENS," paragraph 30.)

51. The zillah and city judges are authorized to refer to the principal sudder ameens any original suits instituted in their courts for money or other personal property, or for the property or possession of land or other real property, whatever may be the amount or value of such property; provided that no suit be referred to a principal sudder ameen in which he himself, or his relatives, or dependants shall be a party.—Reg. V, 1831, sec. xviii, cl. 1, and Act. XXV, 1837, sec i.

52. In cases where, by reason of the above clause, a suit cannot be referred to a sudder ameen, because he himself or his relatives or dependants are a party to the suit, and where the zillah and city judges cannot refer such suit to be tried by any other competent authority, it shall be lawful for each of the Courts of Sudder Dewanny Adawlut to direct, by an order authenticated by the official signature of their register, that the cognizance of such suit shall be transferred to any other Zillah or City Court subordinate to the same Court of Sudder Dewanny Adawlut; and the judge of such other Zillah or City Court may thereupon refer such suit in the same manner as if the same had been originally instituted in the court of such other zillah or city.—Act. XXVII, 1838, sec. ii.

NOTE.—The clause referred to is the first of sec xviii, Reg. V, 1831, which relates to Principal Sudder Ameens only. It is therefore clear that the rule here provided for "Sudder Ameens" must be intended to apply to Principal Sudder Ameens. Perhaps the term "Sudder Ameens" is here used generally, and intends to *include* Principal Sudder Ameens as well as Sudder Ameens.

53. It shall be competent to every zillah or city judge to refer for trial and decision any original suit preferred under the provisions of clause 1, section xxx, Regulation II, 1819, of the Bengal Code, to any principal sudder ameen, anything in the existing regulations to the contrary notwithstanding.—Art. XXV, 1837, sec. iii.

54 It shall be competent to either of the Courts of Sudder Dewanny Adawlut by an order under the signature of the register of such court to authorize the Judge of any Zillah or City Court subordinate to such Court of Sudder Dewanny Adawlut, to transfer to a principal sudder ameen any civil proceedings, whether miscellaneous or summary, which may be depending at the time when such order is issued, or be thereafter instituted in the court of the said zillah or city judge, and all proceedings so transferred shall be disposed of by the said principal sudder ameen according to the rules prescribed in the regulations for the guidance of the zillah and city judges in the like cases: Provided, however, that an appeal from the order of the principal sudder ameen in such cases shall lie in the first instance to the zillah or city judge, and specially to the Sudder Dewanny Adawlut.—Act XXV, 1837, sec viii

55. (*Suits regarding rent are cognizable by principal sudder ameens*) Reg VII, 1832, sec x (See "MOONSIFFS," paragraph 17)

56 (*Judicial powers of registers extended to principal sudder ameens*)—Reg XXIV, 1814, secs xi, xii, Reg II, 1821, secs xi, xii, xiii, Reg III 1824, sec ii, cls. 1 to 3; Reg VII, 1832, sec xvii (See "SUDDER AMEENS," paragraph 37)

57 (*Suits within the competency of a principal sudder ameen may be instituted in their own courts*)—Act IX, 1844, secs i and ii. (See "SUDDER AMEENS," paragraphs 39 and 40)

58 (*When zillah judges retain suits on their own files, cognizable by principal sudder ameens, to record reasons*)—Reg V, 1831, sec xxiv (See "SUDDER AMEENS," paragraph 42)

## ZILLAH COURTS

59 The Zillah Courts of Dewanny Adawlut, or courts of judicature for the trial of civil suits established in the several zillahs and cities, are to be denominated after the zillah or the city in which they are respectively established—Reg III, 1793, sec ii

60 It shall be lawful for the Governor-General in Council, by an order in council, to create new zillahs in any part of the presidency of Fort William in Bengal, and to alter the limits of existing zillahs.—Act XXI, 1836.

61 Each Zillah and City Court is to be superintended by one judge, who, previous to entering upon the execution of the duties of his office, is to take and subscribe the following oath before any person whom the Governor-General in Council may commission to administer it

"I, A B, appointed judge of the Dewanny Adawlut of the zillah (or city) of ————, solemnly swear, that I will administer justice conformably to the Regulations that have been or may be passed by the Governor-General in Council, to the best of my ability, knowledge, and judgment, without fear, favour, promise, or hope of reward, that I will not receive, directly or indirectly, any present or nuzzer, in money or effects of any kind, from any party or persons whomsoever, on account of any suit to be instituted, or which may be depending, or have been decided in the court of which I am appointed judge, that I will not knowingly permit any person or persons under my authority, or in my immediate service, to receive, directly or indirectly, any present or nuzzer, in money or effects, from any party or person whomsoever, on account of any suit to be instituted, or which may be depending, or have been decided in the court, that I will render a true and faithful account of all sums of money that may be paid into the court, or disbursed from it, that I will not be concerned, directly or indirectly, in the purchase of any goods or commodities in the British dominions in Bengal for the purpose of remitting money to Europe, nor in any commercial transactions, and that I will not derive, directly or indirectly, any emoluments or advantages from my station, excepting such as the orders of Government do or may authorize me to receive So help me God"—Reg III, 1793, sec iii, Reg III 1829, sec iii

62 When the number of civil causes depending before the judge of any Zillah or City Court may be such as to require the aid and appointment of additional judges for the speedy investigation and decision of such causes, the Governor General in Council, at the recommendation of the Court of Sudder Dewanny Adawlut, or otherwise, if it shall appear to him expedient, will appoint any number of additional judges for the zillah or city wherein it may be requisite, to be denominated "Additional judges of such Zillah or City," who, previously to entering upon the execution of the duties of his office, shall take and subscribe the same oath as is directed to be taken and subscribed by the judges of the Zillah and City Courts—Reg VIII, 1833, sec ii, cl. 1

63. The additional judges so appointed are empowered to perform any part of the duties of the judge of the zillah or city to which they may be appointed, or that the Governor-General in Council may assign to them, and such additional judges, in the performance of those duties will exercise the same powers, and be guided by the same rules and regulations in every respect, as the zillah or city judge—Reg VIII, 1833, sec ii, cl. 2.

64 The special jurisdiction of the Zillah Courts is to extend throughout the districts and places that are or may be included in the zillahs in which they are respectively established The special jurisdiction of the Courts of Dewanny Adawlut for the cities, is to extend over those cities

and the places adjacent, which are or may be included in the limits of their respective jurisdictions.—Reg. III, 1793, sec. iv.

65. The Zillah and City Courts respectively are empowered to take cognizance of all suits and complaints respecting the succession or right to real or personal property, land-rents, revenues, debts, accounts, contracts, partnerships, marriage, caste, claims to damages for injuries, and generally of all suits and complaints of a civil nature, provided the landed or other real property to which the suit or complaint may relate shall be situated, or in all other cases the cause of action shall have arisen, or the defendant at the time when the suit may be commenced shall reside, as a fixed inhabitant, within the limits of the zillah or district over which their jurisdiction may extend. —Reg. III, 1793, sec. viii.

66. Collectors of the revenue and their assistants and native officers, salt agents and their assistants and native officers concerned in the manufacture of salt, the collectors of the customs and their assistants and native officers employed in the collection of the customs, the mint and assay masters and their assistants and native officers, are declared amenable to the Zillah or City Court in the jurisdiction of which they may reside or carry on the public business committed to their charge, for any acts done in their official capacity, in opposition to any Regulation—Reg. III, 1793, sec. x.

67. If a suit shall have been instituted in the Court of Dewanny Adawlut of any zillah or city in which it may have been cognizable, no other Zillah or City Court is to entertain a suit for the same cause of action; and on proof being made in the court in which the second suit may be commenced, that a prior suit for the same cause of action has been instituted in another Zillah or City Court competent to try it, the court in which the second suit may be brought is to dismiss it with costs, to be paid by the party so suing. And if any person shall have commenced a suit in the Dewanny Adawlut of any zillah or city, and whilst that suit is depending, or after a decree may be passed in it, shall commence another suit in any other Zillah or City Court of Dewanny Adawlut for the same cause; or if any person shall commence a suit in any Zillah or City Court of Dewanny Adawlut, which shall appear to the judge to be frivolous, vexatious, or groundless, he is not only to dismiss the suit, with such costs as he may deem it equitable to award against the plaintiff, but is to fine him in such amount as he may think proper, upon a consideration of the nature of the case and the situation and circumstances in life of the offender, and commit him to close custody until he pays the fine.—Reg. III, 1793, sec. xii.

68. The Zillah and City Courts are prohibited entertaining any cause which, from the production of a former decree, or the records of the court, shall appear to have been heard and determined by any former judge, or any superintendent of a court having competent jurisdiction. If any doubt should arise respecting the competency of the former jurisdiction, the judges are to report the circumstances to the Sudder Dewanny Adawlut, and wait the instructions of that court.—Reg. III, 1793, sec. xvi.

69. The Zillah and City Courts are prohibited interfering, in any respect, in any cause or matter of a criminal nature, declared cognizable by the magistrates of the several zillahs and cities, the Sessions Courts, or the Nizamut Adawlut, or any other courts for the trial of cases of a criminal nature, that now exist, or which may be hereafter established; excepting for contempt and perjuries committed in open court, as prescribed in the Regulations and Acts in force.—Reg, III, 1793, sec. xviii.

70. Into whatever zillah or city the provisions of Regulation V, 1831, have been introduced, the judge of the Zillah or City Court shall have primary jurisdiction in all suits in which the value or amount of the claim may exceed five thousand rupees.—Reg V, 1831, sec. xxvii, cl. 3.

71. No person whatever shall, by reason of place of birth, or by reason of descent, be, in any civil proceeding whatever excepted from the jurisdiction of the Zillah or City Courts.—Act XI, 1836, sec. ii.

72. The Zillah and City Courts are prohibited hearing, trying, or determining the merits of any suit whatever, against any person or persons, if the cause of action shall have arisen previous to the 12th of August, 1765; or any suit whatever against any person or persons, if the cause of action shall have arisen twelve years before any suit shall have been commenced on account of it; unless the complainant can show, by clear and positive proof, that he had demanded the money or matter in question, and that the defendant had admitted the truth of the demand, or promised to pay the money; or that he directly preferred his claim within that period, for the matters in dispute, to a court of competent jurisdiction to try the demand; and shall assign satisfactory reasons to the court why he did not proceed in the suit; or shall prove that, either from minority or other good and sufficient cause, he had been precluded from obtaining redress.—Reg. III, 1793, sec. xiv.

73. The limitation of twelve years for the commencement of civil suits, shall not be considered applicable to any suits for the recovery of the public revenue, or for any public right or claim

whatever, which may be instituted by or in behalf of Government with the sanction of the Governor-General in Council, or by direction of any public officer or officers who may be duly authorized to prosecute the same on the part of Government.—Reg. II, 1805, sec. ii. cl. i.

74. All claims on the part of Government, whether for the assessment of land held exempt from the public revenue without legal and sufficient title to such exemption, or for the recovery of arrears of the public assessment, or for any other public right whatever (the judicial cognizance of which may not have been otherwise limited by some special rule or provision in force), shall be heard, tried, and determined in the several courts of civil justice to which the cognizance thereof may properly belong, under the general Regulations which have been or may be hereafter enacted, if the same be regularly and duly preferred at any time within the period of sixty years from and after the origin of the cause of action: Provided that such cause of action shall not have originated within the provinces of Bengal, Behar, and Orissa, before the 12th August, A.C. 1765, or within the province of Benares, before the 1st July, A.C. 1775, or within the provinces ceded by the Nawaub Vizier, before the 10th November, A.C. 1801, or within the provinces constituting the zillah of Allyghur, or within the northern and southern divisions of the zillah of Saharumpore, or within the zillah of Agra, before the 30th December, 1803, or within the zillah of Cuttack before the 14th October, 1803, being the periods of the Company's accession to the civil government of the above provinces respectively.—Reg. II, 1805, sec. ii. cl. 2; Reg. VIII, 1805, sec. vi, cl. 2; Reg. XIV, 1805, sec. v.

75. The limitation of twelve years shall also not be considered applicable to any private claims of right to lands, houses, or other permanent immovable property, if the person or persons in possession of such property, when the claim of right thereto may be preferred in a competent Court of Judicature, shall have acquired possession thereof by violence, fraud, or by any other unjust, dishonest means whatever; or if such property shall have been so acquired by any other person or persons from whom the actual occupant or occupants may have derived his or their title, and shall not have been subsequently held under a just and honest title (such as inheritance, purchase, fair donation, or any other fair title believed to have conveyed a right of possession and property), during a period of twelve years antecedent to the time of preferring a claim of right thereto in a competent court: Provided that such violent, fraudulent, unjust, or dishonest acquisition, be established to the satisfaction of the court in which the claim may be preferred: or if the suit be appealable, to the satisfaction of the proper Court of Appeal.—Reg. II. 1805, sec. iii, cl. 1.

76. In all such cases, viz. when the original cause of action may have arisen more than twelve years before the institution of the suit, and the claim may not be cognizable under the exceptions and provisions contained in the Regulations, but may be nevertheless cognizable under the provision made by the preceding paragraph, from the defendant's having acquired possession of the claimed property by violence, fraud, or other unjust and dishonest means, or from the property after being so acquired by any other person, not having been subsequently held by the present occupant and his predecessors under a just and honest title during the prescribed period of twelve years, the plaintiff shall set forth the same distinctly, either in his petition of plaint, or in his replication. The court, after taking the answer and rejoinder of the defendant, shall, if the alleged unjust and dishonest acquisition be denied by the defendant, examine any evidence that may be adduced by the plaintiff in proof of his allegation, as well as any evidence that may be brought by the defendant to prove his just and honest acquisition of the property claimed, or the just and honest possession thereof by himself and his predecessors during more than twelve years, after which the court shall determine whether the suit in question be cognizable under the present rule and section or otherwise; and if such determination be in favour of the plaintiff, or, in appealed cases, if a determination for the cognizance of the suit be passed by the Court of Appeal, the merits of the plaintiff's claim of right shall be heard, tried, and determined, notwithstanding the lapse of time, in like manner as if the claim had been regularly preferred within twelve years after the origin of the cause of action.—Reg. II, 1805. sec. iii, cl. 2.

77. Provided, that nothing in the preceding paragraph, or in any part of the existing Regulations, shall be held to authorise the cognizance of any suit whatever in any court of justice, if the cause of action shall have arisen sixty years before the institution of such suit; nor shall any plea on the part of the plaintiff for the non-prosecution of his claim of right during a period of sixty years after the origin of his alleged cause of action, nor any original defect of title on the part of the possessor of the property claimed after the lapse of such period, be deemed a sufficient ground for taking judicial cognizance of any suit so preferred. Moreover, although the property claimed may have been acquired by an insufficient title within the period of sixty years, hereby fixed as the utmost limit for the cognizance of any claims in the established courts of justice, if the property so acquired shall have descended by inheritance to the person in possession when the claim thereto may be preferred after a lapse of twelve years, or if such person shall have obtained just and honest possession thereof by purchase, fair donation, or by any other title

believed to be just and valid, and not appearing to be in any respect collusive for the purpose of depriving the plaintiff of his right, and either such occupant himself, or any other person in his behalf, or from whom the property may have been obtained under any of the titles aforesaid, or the whole in succession shall have held quiet and unmolested possession, under a title believed to be just and valid, during a period of twelve years antecedent to the time of a claim thereto being preferred in a competent court, the provisions above made shall not be considered applicable to any private claims to property so circumstanced, which are therefore to be deemed inadmissible, as heretofore, after twelve years from the origin of the cause of action, unless the same be cognizable under the exceptions and provisions already in force.—Reg. II, 1805, sec. iii, cl. 3.

78. Provided further, that no length of time shall be considered to establish a prescriptive right of property, or to bar the cognizance of a suit for the recovery of property, in cases of mortgage or deposit, wherein the occupant of the land or other property may have acquired, or held possession thereof as mortgagee, or depositary only, without any proprietary right; nor in any other case whatever wherein the possession of the actual occupant, or of those from whom his occupancy may have been derived, shall not have been under a title *bond fide* believed to have conveyed a right of property to the possessor.—Reg. II, 1805, sec. iii, cl. 4.

79. All suits, complaints, and informations, cognizable by the Civil Courts of Judicature, for the recovery of any fine or penalty receivable by Government or by the informer, on account of the unlicensed manufacture or sale of intoxicating liquors or drugs, the illicit manufacture or sale of salt or opium, the fraudulent evasion of the stamp duties prescribed by the Regulations, or on account of any other fines or penalties recoverable, either by a regular suit or by summary process, in the Courts of Dewanny Adawlut, under any Regulation in force which may not have fixed a specific period for the recovery thereof, shall be preferred to the proper courts, in such manner as the Regulations require, within one year after the act for which the fine or penalty may be demandable shall have been committed; and no such suit, complaint, or information (not otherwise specially provided for), shall be admitted and proceeded upon in any court of justice after the period prescribed, unless the same be prosecuted on the part of Government, and good and sufficient cause be assigned why it has not been brought forward to judicial cognizance within one year after the commission of the act whereupon the fine or penalty sued for is demandable.—Reg. II, 1805, sec. vi.

80. All suits and complaints for penal damages (viz. for pecuniary penalties on account of any act or omission, in opposition to the laws and regulations, exclusive of a compensation for actual losses), in cases wherein such damages are allowed by the Regulations to individuals, and for the recovery of which by judicial process no specific period may have been fixed, are also required to be preferred to the proper courts of justice within one year after the cause of action shall have arisen, or as soon afterwards as it may be in the power of the party aggrieved to prefer the same; and no such suit or complaint shall be received and proceeded upon in any court of justice, after the expiration of one year from the time when the alleged cause of action may have arisen, without good and sufficient cause being assigned why the same has not been judicially prosecuted at an earlier period. Provided, that this restriction be understood to be strictly applicable to claims to penal damages only (as above described), and be not considered applicable to any suits for the recovery of the property, or for the value of property, appertaining to the plaintiff; or for a compensation or indemnification on account of any damage to, or loss of, property actually sustained by the plaintiff; in all which cases the general rules of limitation are to be applied, as in other suits of individuals for the recovery of their rights in the Civil Courts.—Reg. II, 1805, sec. vii.

81. The Dewanny Adawlut of the Zillah of the Twenty-four Pergunnahs is not to receive or entertain any suit, under any pretence whatever, relating to any land, house, tenement, or hereditament, nor any dispute regarding the boundaries of lands, houses, tenements, or hereditaments, situated within the town of Calcutta (which, for the purpose of this rule, is declared to be bounded by a line drawn by the bridge and nullah of the Baug-bazar, or Cow-cross, the Mahratta intrenchment, and the road adjoining to it continued to the westward of the Colligaut-road, the Govindpore nullah, and the river). The court is commanded not to intermeddle with, or take cognizance of the suits above-mentioned, which are to be considered entirely exempt from its jurisdiction. But the above prohibitions are not to be construed to extend to preclude the Court of Dewanny Adawlut of the zillah of the Twenty-four Pergunnahs entertaining any suit concerning marriage or caste, in which no money or other valuable thing may be demanded or decreed, although the cause of action shall have arisen, or the defendant may reside, or shall have resided at the time the suit commenced within the limits of the town of Calcutta.—Reg. III, 1793, sec. xvii.

# CIVIL JUDICATURE.

## PROCEDURE ON THE TRIAL OF ORIGINAL SUITS.

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# CIVIL JUDICATURE.

## PROCEDURE ON THE TRIAL OF ORIGINAL SUITS.

### ZILLAH COURTS.

#### INSTITUTION OF SUITS.

1. The Zillah and City Courts are to be held in a large and convenient room in the city or place at which they are respectively established, three days in every week, or oftener if the state of the business shall render it necessary Whenever the judge of a Zillah or City Court, from indisposition or other cause, shall be prevented holding a court three days in each week, as above required, he is, at the expiration of the week, to report the cause of the court not being so held to the Sudder Dewanny Adawlut. This report is not to be made when the court may be shut pursuant to orders from the Sudder Dewanny Adawlut. No rule, order, proceeding, or decree is to be made, but on court days and in open court.—Reg. III, 1793, sec. v.

2 The Zillah and City Courts are to use a circular seal, one inch and three quarters in diameter. The seals of the Zillah and City Courts are to bear an inscription to the following effect, "The seal of the Dewanny Adawlut of the zillah (or city) of ....." The seal of each court is to remain in the custody of the judge —Reg III, 1793, sec. vi.

3 No complaint is to be received but from the plaintiff, nor any answer to a complaint but from the defendant, or their respective vakeels duly empowered. Nor is any person to be permitted to do any act, or to be heard *viva voce* in any stage of a cause, excepting the plaintiff or defendant, or their vakeels or witnesses.—Reg. IV, 1793, sec. ii.

4 Every complaint that may be presented in a Zillah or other court of original jurisdiction shall state precisely the grounds of complaint, the time when the cause of action arose, the name and residence of the person or persons complained against, the total sum of money or personal property claimed, or if the claim be for landed property whether malgoozary or la-khiraj, or the profits thereof, it shall state the amount or value thereof which shall be calculated according to the rules prescribed in No. 8, Schedule B. Regulation X, 1829.—The plaint shall also state all material circumstances which may elucidate the transaction and may tend to bring the matter in dispute to a distinct issue. The complaint is to be signed and numbered, and dated in the order in which it may be received by the judge of the court and registered in a book to be kept for that purpose.—Reg IV, 1793, sec iii, Reg. XXIII, 1814, sec. xvii.

5. Upon the institution of a civil suit in a court of original jurisdiction, the general first process against the defendant shall be a notice, containing a short statement of the demand, with a requisition to attend in person or by vakeel, and to deliver an answer to the plaint, on or before a certain day to be specified in the notice.—Reg. II, 1806, sec. ii, cl. i.

6 If the defendant have an accredited agent at the place where the court is held, expressly empowered, either by a clause in his general mokhtarnamah, or by a separate mokhtarnamah granted for that purpose, to receive on behalf of his constituent notices or other judicial processes, which may not be specially ordered to be served personally by an officer of the court, the notice shall be tendered to such agent, to be communicated by him to his principal; and the agent's acknowledgment to be endorsed upon it shall be accepted as a sufficient service of it, if he be desirous of giving such acknowledgment in preference to the notice being served on the person of his principal by an officer of the court.—Reg. II, 1806, sec. ii, cl. 2

7. If the defendant shall not have an accredited agent at the place where the court is held, or if he shall not have expressly authorised his agent to receive notices of the above description; or if such agent shall decline receiving the notice for communication to his constituent and the defendant be resident within the jurisdiction of the court, it shall be served on him through the nazir of the court by a single chupprassy or peon, who shall require only the acknowledgment of the defendant to be endorsed upon it, or if he be absent from his usual place of residence, the acknowledgment of his principal agent, or for any person acting for him during his absence If the defendant be resident within the jurisdiction of any other court than that in which the suit may have been instituted, the notice shall be transmitted to the judge of the court in which the defendant may reside, to be served in the manner above directed. If the defendant be neither resident within the jurisdiction of the court in which the suit may be instituted, nor of any other court, and the suit shall notwithstanding be cognizable, either in claims to landed or other

immovable property, from the property claimed being situated within the jurisdiction of the court, or in other cases from the cause of action having arisen within its jurisdiction, the notice, if the suit be for land or other immovable property, shall be served upon the defendant's agent or representative in charge of such property; and in other suits, the judge shall cause notice of the claim to be conveyed to the defendant, in such manner as may appear most certain and convenient according to the circumstances of the case.—Reg. II, 1806, sec. ii, cl. 3.

8. The notices issued to molungees and others employed in the manufacture of salt, shall be served in the manner directed by the existing Regulations with respect to the service of summonses upon persons so employed, when sued as defendants in the Civil Courts.—Reg. II, 1806, Sec. ii, cl. 4.

9. If a defendant to whom a notice may have been issued, as directed in paragraph 5, shall abscond, or is not after diligent search to be found, or shall shut himself up in any house or building, or retire to any place, so that the notice cannot be served upon him, the judge on receiving the nazir's return to this effect, shall issue a proclamation, to be stuck up in some conspicuous part of the room in which the court may be held. The proclamation is to contain a copy of the notice, and shall declare that if the party shall not appear on a day to be fixed (which shall not be less than fifteen days from the time that the proclamation may be fixed up), the court will proceed without further notice to try and determine the cause without the appearance or answer of the defendant. The court is likewise to order a copy of the notice and proclamation to be fixed up with all practicable despatch on the outer door of the house in which the defendant may have usually dwelt, or in some conspicuous place in the village, or other place, in which he may have generally resided. The nazir is to return the order, with an endorsement stating at what times and places the notice and proclamation may have been fixed up. The return of the nazir is to be filed in court, and to form a part of the record of the trial. If the defendant shall not appear in person or by vakeel, by the time limited in such proclamation, or if a defendant who may have been served with a notice as directed in paragraph 5, shall not appear in person or by vakeel within the time specified, or if, having appeared, he shall refuse to answer the plaint or make other default, or admit the truth of the complaint, the court shall proceed to try the cause *ex parte;* and after examining the plaintiff's evidence in support of his claim, shall give judgment in the same manner as if the defendant had appeared, answered, and entered into proof.—Reg. IV, 1793, sec. xi; Reg. II, 1806, sec. iii.

10. If a defendant, after receiving the notice above prescribed, shall attend in person or by vakeel and deliver his answer to the plaint, and no reason shall subsequently appear to the court for requiring security for his appearance during the trial of the suit, he shall be allowed to defend the cause to its termination, without being called upon for such security. But if the judge shall be satisfied by sufficient proof that there is reason to believe that the defendant intends to abscond and withdraw himself from the jurisdiction of the court, he may, either on the institution of the suit, or at any time whilst the suit is depending in the court, issue process against the defendant, requiring him to give security and answer to the complaint either in person or by vakeel, under penalty of being committed to close custody until such security be given, or the decree of the court be complied with, or until an attachment of property shall have taken place, to secure the execution of the ultimate judgment in the cause. The security bond to be executed in such instances, shall, in substance, correspond with that prescribed by section iii, Regulation XI, 1797;* and in fixing the amount of the security to be required, the judge shall exercise his discretion with respect to the responsibility of the surety or sureties to be found by the defendant for his personal attendance when required; and in the first instance, whatever may be the claim of the plaintiff, shall demand from the defendant such security only as may appear necessary to secure his appearance during the trial of the suit: Provided, that if at any time in the course of the trial the security so taken from the defendant shall appear to the judge insufficient, he is authorised and required to take such further security as he may think necessary to secure the appearance of the defendant.—Reg. IV, 1793, sec. v; Reg. II, 1806, sec. iv; Reg III, 1802, sec. ii; and Act VI, 1843, sec. iv.

NOTE.—Form of security bond prescribed in sec. iii, Reg XI, 1797:—

"Whereas a suit has been instituted in the Dewanny Adawlut of the Zillah [or city] of ——— by ———, plaintiff, against ———, defendant; and whereas ———, inhabitant of ———, have voluntarily become security for the appearance of the said defendant to answer to the above suit, and perform all such orders as may be passed thereupon, until the final decree on it shall have been carried into execution, I do therefore hereby engage and bind myself, my heirs and successors, that the said defendant shall appear in person, or by vakeel, to make answer to the plaint against him in the suit aforesaid, on the ———, being the day on which his appearance has been required in the said Zillah (or City) Court, and further, that the said defendant shall personally attend at the said Zillah (or City) Court whenever the same may be required by the judge thereof, at any time whilst the above suit is depending before the Zillah Court or Court of Sudder Dewanny Adawlut, or before the final decree which may be passed thereupon by the above courts, respectively, shall be fully and completely carried into execution; in default of which, and in the event of my not producing the said defendant when called upon, I will be answerable for such sum as may be adjudged against him, and for the performance of whatever order or decree may be passed against him on the suit above-mentioned."

11. In any case, if the judge be satisfied by sufficient proof that there is ground to apprehend

the defendant means to dispose of the property in his possession by any private transfer, or to cause the public sale of any disputed land, by withholding the assessment upon it, or to remove any personal property from the jurisdiction of the court whilst the suit against him is depending, for the purpose of avoiding the execution of an eventual judgment against him, the judge is authorized to call upon the defendant for malzaminy security, in such sum as may appear sufficient to make good the ultimate judgment of the court: and in the event of such security not being given (within a reasonable time to be allowed for that purpose), to cause the attachment of any land, effects, or other property belonging to, or possessed by the defendant, to the amount or value of the cause of action in the suit depending, or the attachment of which may be deemed necessary to secure the execution of the judgment to be passed in the cause.—Reg. II, 1806, sec. v, cl. 1.

12. The attachment in such cases shall be made by a written order of the court, to be read and proclaimed upon the spot, and to be affixed in some conspicuous situation at the place where the property is situated; after which any private alienation of the property sequestered, whether by sale, gift, or otherwise, during the continuance of the attachment, shall be deemed illegal and void, and any unauthorised removal of the property so attached during such period, with a view to oppose or evade the sequestration, shall be punishable, on proof, as an act of resistance to the process of the court, according to the provisions in force concerning resistance to the process of the civil courts. In suits for landed property of considerable value, wherein it may appear necessary for the purposes of justice to divest the defendant from the management of the land until the suit be decided, or malzaminy security be given, the attachment shall be made through the collector of the district in which the land is situated, as prescribed by section vi. Regulation V, 1798, in appealed cases, wherein neither the appellant nor respondent may be able to give security for staying execution of the decree. But in other cases, the attachments which may be ordered under the present rule shall not, without special cause to be recorded on the proceedings of the court, remove the defendant or his representative from the possession and management of the land, or other property attached, until a decision be passed in the cause before the Zillah or City Court; nor be understood to preclude any act of the defendant or his representative relative to such property, which may be consistent with the object of the attachment.—Reg. II, 1806, sec. v, cl. 2.

13. Upon the decision of the suit, the judge shall pass such further order relative to the property attached, as may be just and conformable with the judgment given in the cause. If the decree be against the defendant, all right and interest possessed by him in the property attached (saving arrears of rent or revenue due from land, and any other *bonâ fide* claims which may be entitled to satisfaction in preference to the decree) shall be held answerable for the execution of the judgment, in the mode prescribed by the Regulations. But if the plaintiff's claim be dismissed, or be not in any considerable proportion established against the defendant, all expense and loss to the defendant which may arise from the attachment of his property in consequence of such claim, shall be reimbursed to him by the plaintiff as part of the costs of suit.—Reg. II, 1806, sec. v, cl. 3.

14. Whenever any property may be attached by order of a Zillah or City Court, under the above provisions, the trial of the cause shall be proceeded on and brought to a conclusion as speedily as possible, without regard to the order of time with respect to other depending causes in which it may have been instituted. The attachment shall also be taken off on the delivery of sufficient malzaminy security, at any time previous to the decision of the cause in the Zillah or City Court.—Reg. II, 1806, sec. vi.

15. If a defendant for whose appearance security may have been taken, shall not appear, or having appeared, shall refuse to give answer, the plaintiff is permitted to institute a suit against the sureties on their engagement, and is to be entitled to recover from them whatever he may prove to be due to him from the defendant, or he may proceed against the defendant, in the same manner as defendants are directed to be proceeded against who have been served with a notice, and have not appeared, or have refused to give answer.—Reg. IV, 1793, sec. xii.

16. In any case in which the defendant shall be a Hindoo or Mahomedan woman, of a rank or quality which, according to the customs and usages of the country, would render it improper to compel her to appear in an open court of justice, the judges of the Zillah and City Courts are not to issue any compulsory process against her, to compel her to appear and make answer, but are to issue a notice requiring her to appear in person or by vakeel, at a certain time, to be named in the notice, in the Zillah or City Court, and answer to the complaint, and abide by the orders which the Court may think proper to pass in the cause. The notice is to be directed to the nazir of the court, and is to contain a short account of the nature of the demand or complaint, with a notice, that if the defendant shall not appear, as required at the time specified in it, or having so appeared, shall not answer to the complaint at the time which may be fixed by the Court, or make any other default, the court will proceed to try and determine the cause in the same manner as if the defendant had appeared, answered, and done what she is authorized or required to do in defence of the suit. The notice is further to command the nazir to deliver a copy of it to the dewan, or some principal

servant of the defendant. The nazir is not to have recourse to compulsion to enforce the notice, but is to serve it in the manner herein directed, and no other. The nazir is to return the notice on the day appointed for the appearance of the defendant, with an indorsement specifying in what manner he has executed it; and if he has not executed it, the reason why it has not been executed. If the defendant should appear in person or by vakeel, the court is to fix a certain day according to its discretion, for her to answer to the complaint, and to appoint a day for the parties to deliver in their pleadings, and the court is to try and determine the cause, in the same manner as suits instituted against persons not being women of the above mentioned description. Upon the notice being issued, if the dewan or other principal servant of the defendant shall abscond or otherwise act so that the notice cannot be served upon him, or shall not, after diligent search and inquiry be found, the judge, upon the return of the notice, and proof being made before him on declaration or oath of the fact, is to proceed against the defendant, in the same manner as he is directed to proceed against a defendant, who after diligent search, cannot be found, or shall have absconded, or otherwise acted so that he could not be served with a notice. If a female defendant, on whom no notice can be served, shall not appear as required, or appearing shall neglect or refuse to answer, or make other default, or admit the truth of the complaint, the court on examining the allegations of the plaintiff only, and receiving the depositions of his witnesses, are to decree and give judgment, in the same manner as if the defendant had appeared, answered, and entered into proof.—Reg. IV, 1793, sec. xiii.

17. If the defendant shall appear, either in person or by vakeel, the court is to fix a day, according to its discretion, for him to answer to the complaint, and if it shall deem it reasonable so to do, may at any time allow the defendant a further period for delivering his answer. When the defendant has delivered in his answer to the complaint, the plaintiff is to reply to it on the next court day; but he is not to be permitted to introduce in his reply any matter whatever which may not be contained in his complaint, but is either to acknowledge the answer of the defendant to be true, or simply and shortly deny the truth of such of the facts in the answer as he intends to dispute, or simply deny the truth of all the facts contained in it, or the competency of the answer. The defendant is to rejoin to the reply on the same day; but is not to be permitted to introduce in his rejoinder any matter not contained in his answer, but is simply to deny the truth of the reply of the plaintiff, or the parts of it which he means to dispute, and aver the truth or competency of his own answer; and no further pleadings whatever are to be admitted in the cause. Whenever a defendant shall refuse or neglect to rejoin at the time appointed for that purpose, the court is to proceed in the trial in the same manner as if the defendant himself had rejoined.—Reg. XXVI, 1814, sec. vi, cl. 2; Reg. IV, 1793, sec. v.

18. No supplemental complaint, or other supplemental pleadings, shall be admitted in any suit, unless the court, upon a perusal of the pleadings previously filed, and from a consideration of the circumstances alleged by the parties, shall deem it just and proper to admit such supplemental plaint or other supplemental pleadings to be filed in the suit.—Reg. XXVI, 1814, sec. vi, cl 3.

19. If during the trial of any regular suit it shall appear that the plaint has been written on stamped paper of a less value than that which ought to have been used under the provisions of No. 8, Schedule B, Regulation X, 1829, and the court shall be of opinion that the error or omission did not arise from any fraudulent motive, or from any design on the part of the plaintiff to evade the provisions of the Regulations, it shall be competent to the court, either to permit or to direct the plaintiff or appellant in the suit to file a duplicate of the plaint on stamped paper, of such a value as may be sufficient to complete the full amount of the stamp duty prescribed.—Reg. XXVI, 1814, sec. vii.

20. In the trial of original regular suits, as well as in the trial of appeals in such suits, the prescribed pleadings shall be completed and read in open court, before any exhibits are filed or witnesses summoned in support of the allegations of either of the parties; unless special and sufficient reason be assigned for taking the immediate deposition of a witness, without waiting until the pleadings are completed and read in open court.—Reg. XXVI, 1814, sec. x, cl. 1.

21. If from the pleadings in the case the points at issue cannot be clearly ascertained, or if from any other reason further explanations may be requisite, the courts shall, on the day on which the suit may be first brought to a hearing, make such inquiries from the parties or their pleaders as may appear necessary, with a view to ascertain the precise object of the action and the grounds on which it is maintained, and shall record the result on their proceedings.—Reg. XXVI. 1814, sec. x, cl. 2.

22. The court shall then consider and record the point or points to be established respectively by the plaintiff or appellant, and by the defendant or respondent, and shall proceed to take the evidence which may be adduced by either party upon such points, in the manner prescribed by the rules in force.—Reg. XXVI, 1814, sec. x, cl. 3.

23. In like manner, if proof shall be required on any other points in the course of the trial, such points shall be recorded on the proceedings, and the proper party shall be called upon for the requisite evidence; and no exhibit shall be filed, or witness summoned, unless expressly declared to be in proof or refutation of some point upon which the court may have directed that evidence should be taken.—Reg. XXVI, 1814, sec. x, cl. 4.

24. In any regular or summary suit, appeal, or proceeding in any of the civil courts of the East India Company, and also in any summary suit, or other proceeding of a civil nature before any court, officer, or other person having by law or by consent of parties, authority to examine witnesses, any party to such suit, appeal or proceeding, shall be competent and entitled to give evidence as a witness either on his own behalf or on behalf of any other party to the suit, appeal, or proceeding in the same manner as if he were not a party to the same: Provided that no party to a suit, appeal, or proceeding, who shall offer himself as a witness therein, shall, without the consent of all parties thereto, be examined otherwise than in open court, in such manner as the court may direct having regard to the usages and customs of the country, unless such examination shall be taken under, and subject to the rules prescribed by paragraphs 56 and 62.—Act XIX, 1853, sec. ii.

25. No person shall, by reason of any interest in the result of any suit or of any interest connected therewith, or by reason of relationship to any of the parties thereto, be incompetent to give evidence in any such suit.—Act XIX, 1853, sec. iii.

26. A husband or wife shall be competent to give evidence for or against the other provided that the examination shall take place in open court, in such manner as the court may direct, having regard to the usages and customs of the country, or that it be taken and read, and subject to the rules prescribed in paragraphs 56 and 62, provided also that any communication made by husband or wife to the other during their marriage, shall be deemed a privileged communication, and shall not be disclosed without the consent of the person making the same, unless such communication shall relate to a matter in dispute, in a suit pending between such husband and wife.—Act XIX, 1853, sec. iv.

27. Any party to a suit may be compelled to give evidence as a witness therein, and also to produce any document in his possession or power, in the same manner, by the same process, and subject to the same rules, as if he were not a party to the suit, except so far as is otherwise provided by this Act: Provided that no court need to compel the attendance of any party to such suit, for the purpose of giving evidence therein, if such party shall satisfy the court that he has no personal knowledge of any material subject of inquiry in the suit, and that he cannot give any material evidence therein. Nothing in this paragraph shall exempt any party to a suit from being summoned to produce a document.—Act XIX, 1853, sec. v.

28. After the parties in a suit in which, according to the practice of the court, a day is fixed for the hearing, shall have filed their exhibits and lists of witnesses, the court shall by an order in writing, appoint a day, not less than fifteen days after the date thereof, for the examination of witnesses and the hearing of the suit.—Act XIX, 1853, sec. vi.

29. The list of witnesses required to be furnished in any suit shall include the names of all the witnesses, whether parties to the suit or not, whom the party filing the list may intend to call as witnesses, or whom he may require to be summoned to give evidence or produce any document, also a list of the documents which he may require to be produced.—Act XIX, 1853, sec. vii.

30. If any party to a suit shall require the attendance of any other party thereto as a witness to be enforced, he shall by himself or his pleader, make a special application to the court for an order for a summons to compel the attendance of the party, and shall show to the satisfaction of the court sufficient grounds in support of such application, otherwise a summons shall not be issued. In cases in which, according to the practice of the court, a day is fixed for the hearing, the application shall be made before such day shall be fixed.—Act XIX, 1853, sec. viii.

31. The court, upon the application of the pleader of any party to a suit, whose attendance as witness is required, or without such application, if the court think fit so to do, may, before making such order, cause notice to be given to the party or his pleader fixing a day for such party to show cause why he should not attend and give evidence, and may also, from time to time, if necessary, for good and sufficient cause, enlarge the time for such purpose.—Act XIX, 1853, sec. ix.

32 In support of the cause shown, the courts shall receive a declaration in writing of the party, if signed by him, and delivered into the court by himself or his pleader.—Act XIX, 1853, sec. x, cl. 1.

33. If the party making such declaration shall wilfully and corruptly make any false statement therein, he shall be deemed guilty of perjury, and shall be proceeded against, and upon conviction punished accordingly.—Act XIX, 1853, sec. x. cl. 2.

34. If no sufficient cause be shown on the day fixed, or upon any subsequent day to which the

court shall enlarge the time for that purpose, the court shall cause a summons to be issued for compelling the party to attend and give evidence.—Act XIX, 1853, sec. xi.

35. The court on the requisition of any party to a suit, or his pleader, may cause a summons to be issued to every person who shall be required to produce any material document. Previously to the issuing of any summons for the attendance of any person to give evidence or produce a document, the party requiring the same shall pay into court such sum as shall appear to the court to be reasonable, to defray the travelling and other expenses of such person, in passing to and from the court in which he may be required to attend and give evidence, and for one day's attendance thereat. In fixing the sum to be paid into court, regard shall be had to the rules, if any, established by the court or board, if any, to which such court shall be subordinate. The sum so paid into court shall be tendered to the witness at the time of serving the summons if it can be served personally. In addition to the sum so paid into court, the court before whom any person who may attend in pursuance of a summons, or proclamation, to give evidence or produce any document, may order such further sum to be paid to the person so attending by the person causing the summons or proclamation to be issued, as may appear to be necessary to defray his travelling and other expenses, and also the expenses of his detention under the summons, or proclamation, and in case of default in payment, may order such sum to be levied by attachment and sale of the goods of the person ordered to pay the same, and the witness shall not be bound to give evidence or produce any document until such sum shall be paid.—Act XIX, 1853, sec. xii.

36. Every summons for the attendance of a witness to give evidence, or to produce a document shall require the intended witness to attend at a time and place to be named in the summons, and shall also state whether the attendance of the witness is required for the purpose of giving evidence, or producing a document, or for both purposes. If a witness, whether a party to the suit or not, is required to attend, and to produce before the court any document alleged by the party summoning him to be in his possession or power, a direction to attend the court with such document shall be inserted in the summons, and the document which the witness may be so called upon to produce, shall be described in the summons with convenient certainty.—Act XIX, 1853, sec. xiii.

37. Every such summons shall, if possible, be served personally upon the person thereby required to attend, by showing the original to such person, and at the same time delivering or tendering to him a copy thereof.—Act XIX, 1853, sec. xiv.

38. Such service must be made a sufficient time before the time specified therein for his attendance to allow the witness a reasonable time for preparation and for travelling to the place at which his attendance is required.—Act XIX, 1853, sec. xv.

39. Any person, whether a party to the suit or not, may be summoned to produce a document without being summoned to give evidence, and any person summoned merely to produce a document shall be deemed to have complied with the summons if he cause such document to be produced, instead of attending personally to produce the same.—Act XIX, 1853, sec. xvi.

40. Any person who shall be summoned to appear and give evidence shall be bound to attend at the time and place named for that purpose.—Act XIX, 1853, sec. xvii.

41. Any person attending to produce a document may be called upon to produce the same without being sworn or examined as a witness.—Act XIX, 1853, sec. xviii.

42. A witness not a party to the suit or proceeding to which he is summoned, shall not be bound to produce his own title deeds, unless he shall have agreed in writing with the party requiring the production thereof, or with some person through whom he claims to produce such deeds.—Act XIX, 1853, sec. xix.

43. A witness, whether a party or not, shall not be bound to produce any document relating to affairs of State, the production of which would be contrary to good policy, nor any document held by him for any other person who would not be bound to produce it if in his own possession.—Act XIX, 1853, sec. xx.

44. A witness being a party to the suit shall not be bound to produce any document in his possession or power which is not relevant or material to the case of the party requiring its production, nor any writing or correspondence which may have passed between him and any legal professional adviser. If any party, however, offer himself as a witness, he shall be bound to produce any such writing or correspondence, in his custody, possession, or power, if relevant or material to the case of the party requiring its production.—Act XIX, 1853, sec. xxi.

45. Every witness summoned to produce a document shall, if the same be in his custody, possession, or power, be bound to produce it, or cause it to be produced to the court, although there be a valid objection to the right of the party calling for it to compel its production, or to the reading, or putting it in as evidence, or to the disclosure of the contents thereof; the validity of any such objection made by the person producing the document shall be determined by the court, and for the better determination thereof, it shall be lawful for the court to receive any admissible evidence which the person producing the document may give respecting it, and it shall also be

lawful for the court to inspect the document, and if necessary to call to its assistance any person whom it may appoint to interpret the same. Such person, however, shall be previously sworn truly to interpret the same to the court alone, and not to disclose the contents thereof except to the court, unless the court shall order the document to be given in evidence. If the court shall be of opinion that such document shall not be produced, the court shall not disclose the contents thereof to the parties, or take any note, or make any mention of the contents or effect thereof in its judgment or proceedings, but shall return the document at once to the party producing the same, having previously marked the same for the purpose of identification, and shall record in its proceedings that a document, identifying it by the mark put upon it, was called for by the person, naming him who shall call for its production, that the person having the possession of the document, naming him, objected to its production, and the reasons, if any, for such objection, together with the reasons of the court for refusing to compel its production. If the court shall refuse to enforce the production of a document, or to receive the same in evidence, the Court of Appeal may, upon a regular appeal, compel the production of such document, and if such court shall think that the production of the same ought to have been enforced, or that it ought to have been received in evidence, may themselves enforce its production, and receive it in evidence, and decide the case upon such document, coupled with the other evidence given in the suit.—Act XIX, 1853, sec. xxii.

46. A barrister, attorney, or vakeel, shall not, without the consent of his client, disclose any communication made by the client to him in the course of his professional employment, nor any advice given by him professionally to his client, nor the contents of any document of his client, the knowledge of which he shall have acquired in the course of his professional employment. The privilege, however, is that of the client, and if any party to a suit shall give evidence therein at his own instance, he shall be deemed thereby to have waived his privilege, and to have consented to the disclosure by such barrister, attorney, or vakeel, of any such matter as aforesaid, which may be relevant, and which the barrister, attorney, or vakeel would have been bound to disclose, but for the privilege of his client, and the barrister, attorney, or vakeel shall be bound, upon examination, to disclose any such matter.—Act XIX, 1853, sec. xxiii.

47. If any witness, whether a party to a suit or not, to whom any summons to give evidence or produce a document, shall have been personally delivered, shall, without lawful excuse, fail to comply with such summons as required by this Act, or attending, or being present in court, shall, without lawful excuse, refuse to give evidence, or to subscribe his deposition, or to produce any document in his custody or possession, named in such summons as aforesaid, upon being required by the court so to do, the court shall have full power and authority to issue an order in writing to the nazir to apprehend and bring the witness before the court; or if he be already before the court, to take him into custody. And such court may impose on such witness a fine not exceeding five hundred rupees for his default or refusal, realizable by attachment and sale of his property, and may commit him to close custody until he shall consent to give his evidence, or to sign his deposition, or to produce the document, and any such fine as aforesaid shall be levied and recovered by attachment and sale of the property of such person: Provided that no fine imposed under the provisions of this paragraph shall exceed the amount of the property in dispute in the suit. If any such person shall abscond, or keep out of the way, so that he cannot be seized or brought before the court, his property shall be liable to attachment and sale in the same manner as is provided by paragraph 50, with respect to a witness on whom the service of a summons cannot be effected. If such person shall be a party to the suit, the court, instead of proceeding in the manner above pointed out, may, if the witness be a plaintiff, appellant, or petitioner, dismiss the complaint, appeal, or petition, with costs against such party, or if such party be a defendant or respondent, may hear, and decide the case against such defendant or respondent *ex-parte*. If any such complaint, appeal, or petition shall be dismissed for such cause, the complainant, or petitioner shall be debarred from preferring any other petition, appeal or complaint in respect of the same matter.—Act XIX, 1853, sec. xxiv.

48. Any person present in court, whether a party or not, may be called upon and compelled by the court to give evidence, and produce any document then and there in his actual possession, or in his power, in the same manner and subject to the same rules as if he had been summoned to attend and give evidence, or to produce such document, and may be punished in like manner for any refusal to obey the order of the court.—Act XIX, 1853, sec. xxv.

49. Any person, whether a party to the suit or not, to whom a summons to attend, and give evidence or produce a document, shall be personally delivered, and who shall without lawful excuse, neglect or refuse to obey such summons, or who shall be proved to have absconded, or kept out of the way to avoid being served with such summons, and any person who, being in court, and upon being required by the court to give evidence, or produce a document in his possession, shall, without lawful excuse, refuse to give evidence, or sign his deposition, or to produce a document in his possession, shall, in addition to any proceedings under this Act, be liable to the

party at whose request the summons shall have been issued, or at whose instance he shall be required to give evidence, or produce the document, for all damages which he may sustain in consequence of such neglect, or refusal, or of such absconding, or keeping out of the way as aforesaid, to be recovered in a civil action —Act XIX, 1853, sec xxvi

50 If a person, whether a party to a suit or not, for whose attendance either to give evidence or produce a document a summons shall be issued, cannot, after diligent search, to be certified by return of the nazir, be found, the court upon proof that the evidence of such witness, or the production of the document is material, and that the witness absconds, or keeps out of the way, to avoid being served with a summons, and that he could not, after diligent search, be found or served with the summons, may cause a proclamation requiring the attendance of such person to give evidence or produce the document at a time and place to be named therein, to be affixed, in the presence, and with the attestation of two respectable householders in some conspicuous place, upon or near to his house or place of abode, and if such person shall not attend at the time and place to be named in such proclamation, and it be proved to the satisfaction of the court that the witness cannot be found, his property, real and personal, to such amount as the court shall deem reasonable, (but subject to the same limitation as to the articles exempt from attachment as in case of attachment for arrears of rent,) shall be liable, under an order of the court, to attachment and sale Provided always, that when the order for attachment and sale shall have been issued by any court subordinate to the Court of Sudder Dewanny Adawlut, a summary appeal shall lie within one month from the date of the order of the subordinate court to the court to which its orders are generally appealable, and that the rules for the time being in force in regard to sales made in execution of decrees, as to the mode and period of attachment and the place or manner of sale, and as to claims of third parties to property attached and notified for sale, shall be held applicable to such sales —Act XIX, 1853, sec xxvii

51 The cost of the attachment shall be borne in the first instance by the party applying for it, and the court issuing the summons and attachment shall not proceed to sale of the property, but shall order the same to be released from attachment if the witness shall appear and satisfy the court that he did not abscond, or keep out of the way to avoid service of a summons, and that he had not notice of the proclamation in time to attend at the time and place named therein Upon the appearance of such witness the court shall make such order in regard to the costs of the attachment as it shall deem fit If the witness appearing shall fail to satisfy the court that he did not abscond, or keep out of the way to avoid service of a summons, and that he had not such notice of the proclamation as aforesaid, it shall be in the discretion of the court to order the property attached, or any part thereof, to be forfeited and sold for the purpose of satisfying all costs incurred in consequence of such defaulter absconding, or keeping out of the way, and such fine not exceeding the amount in dispute in the suit as the court may deem fit to impose upon the witness, having regard to all the circumstances of the case, and the condition in life of the witness, or the court may order the property to be released from attachment upon payment of such costs and fine as aforesaid —Act XIX, 1853, sec xxviii, cl 1

52 An order made in pursuance of this section shall be subject to appeal in the same manner and within the same period, as an appeal against an order for attachment and sale under paragraph 50 —Act XIX, 1853, sec xxviii, cl 2

53 All orders as to fines, and the levying thereof, or as to imprisonment under this Act, shall be subject to a similar appeal within one month from the date of the order —Act XIX, 1853, sec xxix

54 It shall not be necessary to postpone the hearing or decision of a case for the non-production of a document, or for the evidence of a witness who may neglect or refuse to attend, or who shall abscond, or keep out of the way, or who cannot be served with a summons, beyond such period as shall appear proper to the court, having regard to all the circumstances of the case; provided that when a summons shall have been issued for the attendance of a plaintiff or appellant in a suit to give evidence, or produce a document, the court shall, at the request of the defendant or respondent, unless there be good reason to the contrary, postpone the hearing or decision until the plaintiff or appellant can be personally summoned, or shall attend and give evidence, or produce the document required, and that where a summons shall have been issued for the attendance of a defendant or respondent to give evidence or produce a document, the hearing or decision shall, upon the application of the plaintiff or appellant, be postponed in like manner, unless there be good reason to the contrary, until the defendant or respondent can be personally summoned, or shall attend and give evidence, or produce the document required —Act XIX, 1853, sec xxx

55 On the day appointed for the hearing, the evidence of the attending witnesses shall be taken orally in open court, in the presence and hearing, and under the personal direction and superintendence of the judge The evidence of each witness given upon such examination shall be taken down in writing, by or in the presence and under the superintendence of the judge, not

ordinarily by question and answer, but in the form of a narrative, and when completed shall be read over to the witness, and signed by him in the presence of the judge, and of the parties to the suit, or their vakeels, or such of them as may think fit to attend. In case the witness shall refuse to sign the deposition, the judge shall sign the same, and record the reason, if any, given by the witness for such refusal, together with such remarks thereon as the judge shall think fit to make. It shall be in the discretion of the judge to take down, or cause to be taken down, any particular question and answer, if there shall appear any special reason for doing so, or any party, or his vakeel, shall require it. If any question put to a witness be objected to by either of the parties, or their vakeels, and the court shall allow the same to be put, the question and answer shall be taken down, and the objection, and the name of the party making it, shall be noticed in taking down the depositions, together with the decision of the court upon the objection. The judge shall also record such remarks as he may think material respecting the demeanour of any witness whilst under examination.—Act XIX, 1853, sec. xxxi.

56. In cases where the evidence is needed of females, who, according to the custom of the country, ought not to be compelled to appear as witnesses in a court of justice, and in which the court shall be of opinion that the ends of justice require and justify it, such court may issue a commission to any officer of the court, or other person, to be named in such commission, for the examination of such females in the hearing of the parties to the suit, or their vakeels, in such manner as the court may direct, having regard to the custom and usage of the country, and with liberty to the parties, or their vakeels, to cross-examine, anything in paragraph 71 to the contrary notwithstanding.—Act XIX, 1853, sec. xxxii.

57. On or before the day appointed for trial, the court may for any sufficient reason, such as the unavoidable absence of any material witness, or for other good cause, on the application of either party, postpone the hearing to another day, to be named, on such terms as to the payment to the opposite party of his costs occasioned by the postponement, and otherwise, as to the court shall seem reasonable. In such case notice in writing shall be given to each of the witnesses to attend and give evidence, or to produce a document, on the substituted day, instead of the day mentioned in their summonses, if there be time to do so and the judge shall so order. The notice shall be served in the same manner as a summons. The service of such notice shall have the same effect as if the substituted day had been originally named in such summons as the day for the appearance in court to give evidence, or produce a document, and all the provisions in this Act relating to summonses to give evidence or produce documents, shall extend to such notices in the same manner as if such notices had been expressly mentioned in such provisions. If the application be too late to serve such notices, the court may order that the examination of any witness who may be present, or shall attend in pursuance of a summons, shall be proceeded with, and that the further hearing of the case, after the examination of such witness, shall alone be postponed.—Act XIX, 1853, sec. xxxiii.

58. Unless the hearing be postponed in manner aforesaid, it shall commence on the day appointed, or as soon afterwards as the business which may be pending before the court, and may be entitled to priority, will allow, and the recording of evidence on the trial of any suit, when begun under the rules above enacted, shall, unless there be good and sufficient reason to the contrary (which reason shall be recorded), continue on the same day, or on consecutive business days, until the whole of the evidence of the witnesses present shall be heard. The parties, or such of them as desire it, shall then be heard, either by themselves or their pleaders, orally, on the merits of the case, as regards the issues both of fact and law, and after considering the arguments and evidence, the judge shall record his judgment under Act XII, 1843.—Act XIX, 1853, sec. xxxiv.

59. If the court, after the evidence of all the witnesses shall have been heard, and before hearing the pleaders or recording the judgment, shall think it necessary for the ends of justice to inspect any document, or to examine any party to the suit, or any other person whose evidence may appear to be material, the court, of its own accord, may cause such party or person to be summoned to attend as a witness, to give evidence, or to produce such document, if in his possession, on a day to be appointed, and may examine such party or person as a witness in open court, or in such other manner as the court may direct, upon any question which the party or witness may be bound to answer and the court may think necessary, and may also compel the production of any document mentioned in such summons, which any such persons may have in his possession or power, and be bound to produce. Any witness so called shall be subject to the cross-examination of either party, or his vakeel. If such person, whether a party or not, shall be a female, who, according to the custom of the country, ought not to be compelled to appear as a witness in a court of justice, the court may order such person to be examined in the manner provided by paragraph 56, upon such questions as it may direct. The commissioner, or other person authorized to take the examination in such case, may put such further questions as in his judgment may be necessary, or may arise out of the answers to be given to the questions directed by the court.—Act XIX, 1853, sec. xxxv.

60. The judge may cause public notice to be given in court, either before or during the examination of any witness, requiring all or any other witnesses, whether parties or not, who have been summoned or inserted in the list of witnesses in the same cause, to leave and to remain out of court until further order. Any witness in a cause who without lawful excuse shall wilfully remain in or come into court, contrary to such notice, shall be punishable in the same manner as for a contempt of court in open court. Whenever such notice shall be given, the consequence of disobedience thereto shall be publicly explained at the time of giving the notice.—Act XIX, 1853, sec. xxxvi.

61. Any party to a suit, appeal or proceeding who may be examined as a witness therein, shall, except as otherwise provided by this Act, be examined according to the rules for the time being in force as to the examination of witnesses not being parties to the suit, and shall be punishable for any false evidence given by him, in the same manner as if he were not a party.—Act XIX, 1853, sec. xxxvii.

62. The words "witness" and "witnesses," in paragraphs 68 to 74, shall respectively include any party or parties to a suit, and the said Act (paragraph 68 to 74) shall be read as if the words "or party" "or parties" had been used in such Act (paragraphs 68 to 74), in conjunction with the words "witness" or "witnesses" respectively: Provided that the deposition of a party taken under the provisions of this paragraph at the instance of any opposite party may be read in evidence by, or on behalf of, such last mentioned party, without the proof required by paragraph 71. Provided also that no deposition of any party taken under the provisions of this paragraph shall be read or used in evidence unless taken and read at the instance of some opposite party, or unless it shall be proved that the deponent is unable, from sickness or infirmity, to attend to be personally examined, or is, without collusion, or any reference to the suit, at so great a distance from the court, that in the judgment of the court it would be unreasonable to require his personal attendance in court for the purpose of giving such evidence, in which last-mentioned case it shall be discretionary with the court, having regard to the nature of the case and of the evidence given, either to allow or to refuse such deposition to be read.—Act XIX, 1853, sec. xxxviii.

63. No appeal shall lie from any order or decision of a judge with respect to summoning or examining any party to a suit, or as to allowing a deposition to be read under the paragraph next preceding.—Act XIX, 1853, sec. xxxix.

64. If any party to any such suit as aforesaid, shall, in any pleading or statement, refer to any document in his possession or power, as a material proof or document in support of his claim or defence, he shall file such document with the pleading or statement, unless the court shall, for good and sufficient cause, extend the time for filing the same; and any adverse party shall be entitled, by himself, or his vakeel, to inspect and take a copy of the document.—Act XIX, 1853, sec. xl.

65. In the construction of this Act, unless where it is otherwise expressly provided, or there is something in the subject or context repugnant to such construction, or which would render such construction inapplicable to the case, the word "court" shall mean any civil court of the East India Company, and shall include any judge or other officer or person mentioned in paragraph 24; the word "judge" shall be understood to mean the chief judicial authority presiding in any such court, and shall include any officer or person having, by law, or consent of parties, authority to examine witnesses and to act judicially; the word "suit" shall be deemed to mean and include any suit, appeal or proceeding mentioned in paragraph 24; the word "witness" shall include all persons competent and liable to give evidence, whether parties to any suit or proceeding or not. Words importing the masculine gender or singular number shall include the feminine gender or plural number, and *vice versâ*.—Act XIX, 1853, sec. xli.

66. This Act shall extend only to civil proceedings, and to the presidency of Fort William in Bengal, and shall not include any of Her Majesty's Supreme Courts of Judicature.—Act XIX. 1850, sec. xlii.

67. The provisions of paragraphs 31 to 34 shall not extend to the Zillah of Chittagong or Sylhet.—Act XIX, 1853, sec. xliii.

### Examination of Absent Witnesses.

68. It shall be lawful for any court, and the several judges thereof, in every civil proceeding, depending in such court, upon the application of any of the parties to such proceeding, to order the examination, upon interrogatories or otherwise, before any officer of any such court, or other person or persons named in such order, of any witnesses within the jurisdiction of the court where the proceeding shall be depending, or to order a commission to issue to any subordinate court for the examination of such witnesses upon interrogatories, or otherwise, or to order a commission to

issue to any other court for the examination of witnesses at any place or places out of such jurisdiction upon interrogatories or otherwise, and by the same, or any subsequent order or orders, to give all such directions for taking such examinations, as well within the jurisdiction of the court wherein the proceeding shall be depending as without, as may appear reasonable and just: Provided always, that any court to whom any such commission shall be directed, shall take the examination in open court, in all cases where witnesses are able to attend in court, and are not exempted from attendance by law, absolutely, or at the discretion of the court. Provided also, that such commissions as aforesaid for the examination of witnesses out of such jurisdiction, may be directed otherwise than to some court, under special circumstances which may appear to the court issuing the commission to render such special direction expedient. Provided also, that all commissions issued and orders made by any court of the East India Company, and which are required to be executed within the local limits of any of Her Majesty's Supreme Courts, shall be directed in manner hereinafter mentioned.—Act VII, 1841, sec. ii.

69. When any order shall be made for the examination of witnesses within the jurisdiction of the court wherein any such proceeding as aforesaid shall be depending by the authority of this Act, it shall be lawful for the court, or any judge thereof, in and by the first order to be made in the matter, or any subsequent order, to command the attendance of any such person to be named in such order, and to direct the attendance of any such person to be at his own place of residence, or elsewhere, if necessary or convenient so to do, and to produce all necessary documents and papers. And the wilful disobedience to any such order shall be deemed a contempt of court, and punishable as in other cases of refusing or neglecting to give testimony: Provided always, that every person whose attendance shall be required under this Act, shall be entitled to the like payment for expenses and loss of time as upon attendance in court in cases where such expenses are now allowed.—Act VII, 1841, sec. iii.

70. It shall be lawful for every court or person authorized to take the examination of witnesses by any order or commission issued in pursuance of this Act, and they are hereby authorized and required to take all such examinations upon oath or affirmation, where an affirmation is admissible or required upon a trial, and if upon such oath or affirmation any person making the same shall wilfully and corruptly give any false evidence, every person so offending shall be deemed and taken to be guilty of perjury, and every person causing or procuring another person to commit the offence of perjury hereby defined, shall be guilty of subornation of perjury.—Act VII, 1841, sec. iv.

71. Before any order or commission for the examination of any witness under this Act shall be issued, the court or judge issuing the same shall be satisfied that there is good reason for believing that the witness will be unable to attend at the usual time for examination, by reason of absence from the jurisdiction, sickness, or other cause allowed by law. And before granting any such commission, the court granting the same shall make particular inquiry as to the present residence of the witness whose deposition is to be taken under such commission, and as to the court of the same degree as the court granting such commission, or of inferior degree to such court which may be nearest to the place of residence of the witness, and the commission shall ordinarily be directed to such court of equal or inferior degree as may most conveniently execute the same: Provided, however, that if there be doubt as to which is the most convenient court of equal or inferior jurisdiction, such commission may be directed to the judge having jurisdiction within the district within which the commission is to be executed. And the judge shall at his discretion execute the commission in his own court, or direct it to any subordinate court within his district, which shall have the same effect for all the purposes of this Act as if the commission had in the first instance been directed to such subordinate court. And no deposition taken under this Act, except as hereinafter mentioned, shall be read in evidence without the consent of the party against whom the same may be offered, unless it be proved that the deponent is beyond the jurisdiction of the court, or dead, or unable from sickness or infirmity to attend to be personally examined, or distant without collusion more than fifty coss from the place where the court is held, or exempted by law absolutely, or at the discretion of the court, from personal appearance in court, or unless the court shall at its discretion dispense with the proof of any of the above circumstances, or shall authorize the deposition of any witness being read in evidence, notwithstanding proof that the causes for taking such deposition have ceased at the time of reading the same; and after the witness shall be produced, and shall have delivered his testimony, it shall be lawful for the court at its discretion to authorize the reading of the deposition. And all depositions taken under this Act, being duly certified, may be read, at the discretion of the court, without proof of the signature to such certificate.—Act VII, 1841, sec. v.

72. Any court other than one of Her Majesty's courts, or any judge thereof, may issue such commissions as aforesaid, and such orders as are indicated in paragraphs 68 and 69 to be executed within the local limits of the jurisdiction of any of Her Majesty's courts, and all such commissions and orders, except when directed otherwise than to a court, shall be directed to a

Court of Requests* having jurisdiction within such limits, or any part thereof.—Act VII, 1841, sec. vi.

73. Such commissions and orders as aforesaid may be issued for execution under this Act within the territories of princes and states in alliance with the East India Company, and all persons within such last-mentioned territories being in the service of the East India Company are hereby required to pay obedience thereto, and for disobedience thereof, shall, on being found within the jurisdiction of the court, or judge issuing any such commission or order, be punishable in like manner, as if such offence had been committed within such jurisdiction; and for giving false testimony under the same shall be punishable by any court of justice within the territories of the East India Company.—Act VII, 1841, sec. vii.

74. Whenever the evidence of any absent witness shall be required out of the jurisdiction of the court in which the proceedings for which the evidence is wanted may be pending, and the commission shall be directed to any court, such court may punish the wilful disobedience of any such order as aforesaid as a contempt, notwithstanding it shall not itself have made such order, with the same amount of punishment as in other cases of refusing or neglecting to give testimony. —Act VII, 1841, sec. viii.

### FURTHER RULES FOR THE TRIAL OF SUITS.

75. Every exhibit is to be marked with some letter or number to identify it, and the letter or number is to be referred to in the deposition proving it. All exhibits proved by witnesses not present in court are, in the same manner, to be marked and referred to in the depositions proving them, and are to be endorsed and minuted as having been read at the time they may have been read in the court.—Reg. IV, 1793, sec. vi.

76. If any exhibit or written evidence is offered to a Zillah or City Court in a cause depending before it, and the judge of the court shall think it just and proper to reject it, he is to endorse upon it the word "rejected," together with the names of the parties in the cause, and the name of the party who produced the document, the date on which it may be rejected, and his reasons for not admitting it (which may be written either upon the document rejected or on a paper to be annexed to it), and to subscribe his name to the endorsement, and return the document, with his reason so written, to the person who produced it.—Reg. IV, 1793, sec. vi.

77. The judges of the Zillah and City Courts are strictly enjoined not to order or allow of a report of any matters of facts relating to any cause depending before them, with a view to the passing a decree, to be made to them by any officer of the court, or any other person; excepting in cases in which special authority for that purpose may be given to the courts by any Regulation. This rule, however, is not to be construed to prevent a judge referring any question arising on the Mahomedan or Hindoo law to the cauzy or pundit of the court, respect being had to the law in which each is conversant. When a reference of this nature is deemed necessary, a statement of the facts on which the question of law may arise is to be made out in writing, and signed by the judge of the court, and delivered to the cauzy or pundit for his opinion upon it. A blank is to be left for the answer of the law officer on the same paper on which the question is stated, or on a paper firmly annexed to it. The answer is to be attested with the signature of the law officer, and the dates on which the questions may be stated to him, and the answer may be given, are to be specified.—Reg. IV, 1793, sec. xvi.

78. In cases of disputed property regarding lands, houses, or their limits or boundaries, in which the court may deem a local investigation proper, the court is to appoint an ameen, who is to be sworn to make a true and faithful report to the court of the several matters which he may be directed to investigate, and not to take or receive, directly or indirectly, from either party, any gratuity, reward, or consideration, besides the sum which may be allowed to him by the court. The ameen is to be ordered to make his report in writing, subscribed with his name, and to deliver it into court on a certain day, which is to be specified in his commission. The report is to be received by the court as evidence in the cause, with regard to the matters which the ameen may be commissioned to investigate, and no other. The court may order such sum to be paid to the ameen as may be thought reasonable for his trouble, and the amount is to be added to the costs, and paid by the person against whom the decree may be passed. But the court is to be careful that expenses are not unnecessarily incurred by the ameen by delay or other means.—Reg. IV, 1793, sec. xvii.

* The "Calcutta Court of Small Causes," established under the provisions of Act IX, 1850, is declared in Sec. vi. of that Act to be a Court of Requests within the meaning of this Act.

79. The plaintiff is to pay the charges of summoning the defendant and his own witnesses, and of all process attended with expense which may be issued in his behalf previous to the decision of the suit.—Reg. IV, 1793, sec. xviii.

80. The judges of the Zillah and City Courts are to order the causes depending in their respective courts to be brought on for trial according to the order in which they may be filed; except in cases in which it may be otherwise directed by any Regulation, or in which the judge may think it proper for special reasons, which he is to state at large upon the record of the trial, to bring on the cause before its turn. The causes for the trial of which a day may be appointed by the judge shall be entered in a book, and on the day fixed shall be called on for trial, in the order in which they may have been entered. A paper containing a list of the causes, and the day appointed for the trial of them, is to be fixed up in some conspicuous part of the court-room.—Reg. IV, 1793, sec. xix.

### LOCAL INVESTIGATIONS.

81. In the trial of regular suits by the zillah and city judges, or in miscellaneous cases, whenever the adjustment of accounts regarding the execution of decrees, and mercantile or revenue transactions, or the investigations of disputes between landlord and tenant, or of other special matters of account, fact, or usage, may be requisite, and such adjustment or investigation, if conducted by the judge himself, would occupy a larger portion of his time than could be conveniently devoted to it, the judge is authorized to direct any of the sudder ameens under his jurisdiction to make such adjustment or investigation.—Reg. XXIII, 1814, sec. lxxvi, cl. 1.

82. The judge shall, in these cases, furnish to the sudder ameen such part of the proceedings and such detailed instructions, as may appear necessary for his information and guidance, and shall direct the parties, or their vakeels or authorized agents, to attend upon the sudder ameen during the adjustment or investigation.—Reg. XXIII, 1814, sec. lxxvi, cl. 2.

83. The instructions must distinctly specify whether the sudder ameen is merely to transmit the proceedings which he may hold on the inquiry, or also to report his own opinion on the point referred for his investigation.—Reg. XXIII, 1814, sec. lxxvi, cl. 3.

84. The proceedings of the sudder ameen are to be received in evidence in the case, unless the judge may have reason to be dissatisfied with them, in which case he will make such further inquiry as may be requisite, and will pass such ultimate judgment or order as may appear to him to be right and proper.—Reg. XXIII, 1814, sec. lxxvi, cl. 4.

85. The adjustments or investigations described in this section shall be referred to such sudder ameens in all cases in which it would be improper to burthen the parties with any additional expense. In consideration of the monthly salary received by such sudder ameens from Government, they shall not be entitled to receive any additional compensation in those instances, either from the parties or from Government. If any necessary expense be incurred in making the inquiries or adjustments referred to, it shall be competent to the judge, on the completion of the inquiry or adjustment, to order payment of the amount of such necessary expense by one or both of the parties in the case, as may appear just and proper.—Reg. XXIII, 1814, sec. lxxvi, cl. 6; Reg. XIII, 1824, sec. v.

86. In questions which may arise in suits depending before the judge or any Zillah or City Court relating to the adjustment of accounts in revenue or mercantile transactions, or regarding the boundaries of lands or houses, or regarding the right of way in roads or pathways, or regarding any rights in forests, commons, rivers, lakes, ponds, wells, reservoirs, or watercourses, or regarding the quantity or description of land and the rent to which it is liable, and generally in all questions of local rights and usages which cannot be conveniently decided without an inquiry upon the spot, the zillah or city judge may empower any moonsiff within his jurisdiction to make a local investigation into the merits of the question in dispute.—Reg XXIII, 1814, sec. l, cl. 1.

87. The zillah or city judges shall furnish to the moonsiffs such part of the proceedings, and such detailed instructions in each case, as may be necessary for his information and guidance; and shall enjoin the moonsiff either merely to take the requisite evidence in the presence of the parties or their vakeels, and to transmit the same to the court, or likewise to transmit, with the evidence so taken, a report of his own sentiments on the point at issue, founded on the result of the investigation held by him.—Reg. XXIII, 1814, sec. l, cl. 2.

88. The proceedings of the moonsiff are to be received as evidence in the case with regard to the specific matter which he may have been directed to investigate; but if the judge shall have reason to be dissatisfied with the proceedings of the moonsiff, he is at liberty to make such further inquiry as may be requisite, and to pass such ultimate judgment as may appear to him to be right and proper.—Reg. XXIII, 1814, sec. l, cl. 3.

89. The zillah and city judges are further authorised to employ the moonsiffs in delivering over formal possession of lands, houses, or other real property, in conformity with decrees, regular or summary.—Reg. XXIII, 1814, sec. li, cl. 1.

90. The moonsiffs may be employed, at the discretion of the zillah and city judges, in the attachment and sale of personal property, for the purpose of realizing the amount of fines, or of decrees, regular or summary.—Reg. XXIII, 1814, sec. lii.

91. The zillah and city judges are further empowered to employ the moonsiffs in ascertaining and reporting upon the sufficiency of securities, and the indigence of persons suing in *formâ pauperis*.—Reg. XXIII, 1814, sec. liii.

92. The provisions of the preceding paragraphs are not intended to preclude the Zillah and City Courts from deputing an ameen for local inquiries, or from employing the authorised officers of the court in the execution of the various duties above detailed, whenever they may deem it expedient to do so in conformity with the existing Regulations; and the zillah and city judges will be careful that the time of the moonsiffs be not so much occupied in the miscellaneous duties above described, as to interfere materially with the early trial and decision of the regular suits depending before them.—Reg. XXIII, 1814, sec. liv.

93. When the parties or their vakeels have been heard and the witnesses on both sides examined and the exhibits received and considered, the judge is to give judgment according to justice and right, and is to order the costs to be paid to the party in whose favour the decree may be made.—Reg. IV, 1793, sec. vii.

94. The judges are invariably to state in every decree the grounds on which they pass it. —Reg. III, 1793, sec. xx.

95. In cases for which no specific rule may exist, the judges are to act according to justice, equity and good conscience.—Reg. III, 1793, sec. xxi.

96. The judges are to insert in their decrees the names of the witnesses whose depositions may have been taken, the title of every exhibit read in the cause, and the amount of the annual produce of the land, or the sum of money or the value of the property or thing decreed. The decree is to be sealed with the seal of the court, and signed by the judge, and dated on the day on which it may be passed. They are likewise to insert in their decrees all sums paid or payable by the parties under the Regulations, on account of fees or stamp-duties, as well as on account of compensation for the expense of witnesses, and of subsistence money to peons employed in serving the processes of the courts, and of all other costs and expenses of the suit. Such costs and expenses shall be ultimately charged to the parties cast, or to the parties respectively, in such proportions as the court may deem equitable.—Reg. IV, 1793, sec. xxvi; Reg. XXVII, 1814, sec. xxvii.

97. So much of all decrees as consists of the points to be decided, the decision thereon, and the reasons for the decision, and all injunctions for the revision of decrees in regular suits, and all orders for reviews of judgment, which shall be passed by the judges of Sudder Courts, or by judges of Zillah and City Courts, or by subordinate or assistant judges of zillahs, shall be written originally in English, and signed by the judge or judges at the time of pronouncing such decision and orders; and shall be translated into the vernacular language commonly used in the court wherein the suit to which the decree or order relates shall have been instituted; and the translation shall be incorporated in the decree.—Act XII, 1843, sec. i.

98. Doubts having been entertained whether any of the established Zillah or City Courts are competent to provide in their decrees for the payment by instalments of money adjudged by them, or to make such provision, in cases of indigence, at any period after passing their decrees, it is hereby declared, that the civil courts in general are restricted from granting indulgence of time in the satisfaction of a final judgment, when property from which such judgment can be satisfied (whether belonging to the party against whom the judgment is given, or to his surety or sureties for the performance of such judgment) may be forthcoming; unless the party in whose favour the decree is passed shall consent to waive his right of immediate enforcement, under an engagement for gradual payment or otherwise; or unless a short postponement of the sale of property shall, under any particular circumstances, appear just and equitable. But when no property may be pointed out from which the judgment can be enforced, and the party against whom it is passed, or his surety if he have given any, may be willing to engage (under sufficient malzaminy or hazirzaminy security, as one or the other may be tendered or required) for the liquidation of the amount due by instalments within such period as the court passing the final decree, or entrusted with the execution of it, shall deem reasonable and proper, it shall be competent to the court by which the final judgment is given, and to any superior court revising the proceedings of an inferior court, to accept the engage-

ment so offered, and to cause execution of the decree in conformity therewith, so long as the conditions of it shall be duly fulfilled. In such cases, if the person delivering the accepted engagement shall have been taken into custody, he shall be immediately discharged, and shall not be liable to further arrest in execution of the judgment to which such engagement may refer, except on failure to perform the terms of it; nor shall any interest be chargeable in such instances beyond what may be provided for in the engagement.—Reg. II, 1806, sec. x.

99. That the quinquennial register of landed property paying revenue to Government, directed to be prepared by Regulation XLVIII, 1793, may be kept complete, the Zillah and City Courts are strictly enjoined to transmit to the collector of the Zillah and the Board of Revenue a copy of every decree that they may pass, or which may be sent to them to be enforced by the Sudder Dewanny Adawlut, regarding the proprietary right in, or possession of, any zemindarry, independent talook, or other land, paying revenue immediately to Government, or in anywise concerning the possession of such land. The judge is to transmit the copy of the decree within ten days after he may pass or receive it. The decree is to be attested with the signature of the judge and the seal of the court, and is to be accompanied with a short abstract of it, specifying the date of the decree, the names of the purgunnah or purgunnahs, the talook or talooks, the turf or turfs, the village or villages, or the portions of each, which may be decreed, the name or names of the person or persons last in possession, the person or persons to whom the lands may be decreed, and if the land be decreed to two or more persons, the shares awarded to each person.—Reg. IV, 1793, sec. ix; Reg. LVIII, 1795, sec. iv.

100. The judges of the Zillah and City Courts shall furnish the collectors of the districts in which the land may be situated, and the Board of Revenue, with a copy of every decree in suits between individuals which they may pass, or which may be sent to them by superior courts to enforce, by which the right in, or possession of, any lands held exempt from the payment of public revenue, under whatever description of grant the same may be so held, may be affected, in order that the collectors may be enabled to make the necessary entries of the alterations in such right or possession to be inserted in the quinquennial registers of lands held exempt from the payment of revenue, directed to be kept by Regulations XIX, and XXXVII, 1793, and XLI, and XLII, 1795. The copies of such decrees shall be transmitted by the judge within twenty days after the same may be passed or received by him.—Reg. LVIII, 1795, sec. iii.

101. In all original suits or appeals wherein Government may be one of the parties, the court which may pass judgment, whether for or against Government, shall, in addition to the copies of decrees required by the existing Regulations to be delivered to the parties, transmit a copy of the decree, as soon as the same can be prepared, to the secretary to the Government in the judicial department, for the information of the Governor-General in Council. Such copies of decrees are not required to be upon stamped paper; but are to be duly authenticated by the official seal and signature of the judges by whom the same may have been passed, and are to be accompanied with an English translation.—Reg. II, 1805, sec. ix.

102. The judge, either at the time of making the decree or on a subsequent day (of which the court is to give notice to the parties or their vakeels) within ten days after passing the decree, is to deliver or tender in open court to each party, or their vakeels, a true copy of the decree, authenticated as above directed, with an endorsement made upon it of the date on which the copies may be delivered; and an entry of the delivery or tender, with the date on which it may be made, is to be inserted in the margin of the record opposite to the decree. If either of the parties, or their vakeels, shall not be present at the time the decree may be passed, and the prescribed copy of it may be produced in the court to be delivered, or shall not attend on the subsequent day which may be fixed for the delivery of the copies, after previous notice of the day shall have been given to them, or shall refuse to take the copy of the decree when tendered as above directed, the copy is to be deposited amongst the records of the court, and the cause of the non-delivery of it to the party is to be noted upon it in writing, and in the margin of the record opposite to the decree.—Reg. IV, 1793, sec. xxvi.

103. The copies of decrees passed by the civil courts of justice not being always prepared in time to be delivered or tendered in open court to the parties or their vakeels, within ten days after passing the decree, as directed in the preceding paragraph, and such delivery or tender of the decrees of the Zillah Courts being sometimes delayed, from unavoidable causes, till nearly, or even until after the expiration of the period limited for appeals, whereby the parties who may not be present when judgments are passed against them in the civil courts are precluded from having the proper means of determining whether to appeal from such judgments or otherwise; it is provided, that the period of three months, which is limited by the existing Regulations for appeals from the decisions of the Zillah and City Courts to the Court of Sudder Dewanny Adawlut, as well as the period of one month limited for appeals from the decisions of the principal sudder ameens, sudder ameens, and moonsiffs, to the judges of the Zillah and City Courts, and the period of six months limited for receiving appeals from the judgments of the Courts of Sudder Dewanny Adawlut to her

Majesty in Council, shall be calculated, respectively, from the date on which a copy of the decree appealed from may have been delivered, or tendered in open court, to the appellant or his vakeel, as directed by the Regulations above mentioned; or in the event of neither the party nor his vakeel being present to receive a copy of the decree when ready to be delivered to him, the calculation shall be from the date on which the cause of the non-delivery of the decree may be noted upon the copy prepared for delivery, under the official signature of the judge, principal sudder ameen, sudder ameen, and moonsiff, as provided for by the Regulations in such cases. The rule prescribed to the judges of the Zillah and City Courts, for endorsing on the copies of decrees delivered or tendered by them, as well as inserting in their records, the date of delivering or tendering such copies, is also to be carefully observed by the principal sudder ameens, sudder ameens, and moonsiffs, that the exact period of such deliveries or tenders may at all times be ascertainable; and the judges are to communicate this rule to the principal sudder ameens, sudder ameens, and moonsiffs within their respective jurisdictions, for their information and guidance.—Reg. II, 1805, sec. viii.

NOTE.—The rules respecting tender of copies of decrees, and the calculation of the period of appeal from the date of such tender, though not repealed, appears to be superseded by the provisions of sec. viii, Reg. XXVI, 1814, and by the later enactments, which always refer to clause x of that section for the rule of limitation of the right of appeal. Those rules will be found under the head "Appeals."

### EXECUTION OF DECREE.

104. The Zillah and City Courts, and the Sudder Dewanny Adawlut, shall not be required to carry into execution any decree which may be passed in original suits or in appeals, except in conformity with the following rules and provisions.—Reg. XXVI, 1814, sec. xv. cl. 4.

105. Any party who may be desirous of obtaining the execution of a decree, shall appear either in person or by an authorized pleader, before the court by whom such decree may have been passed, and shall present a petition written on the stamped paper prescribed in No. 10, sched. B, Reg. X, 1829, praying for the execution of the decree.—Reg. XXVI, 1814, sec. xv. cl. 5.

106. The petition shall state the number of the suit, the names of the parties, the date and substance of the decree, whether any appeal has been preferred or admitted from the decision, and whether any and what adjustment of the matter in dispute has been made between the parties subsequently to the decree; it shall further contain a statement of the specific amount due to the petitioner under the decree, whether on account of costs of suit or otherwise, and the name of the individual or individuals against whom the enforcement of the decree is solicited.—Reg. XXVI, 1814, sec. xv. cl. 6.

107. The court, after causing the purport of the petition to be compared with the decree contained in the original record of the suit, shall proceed to execute the same in conformity with the provisions which are now in force, or which may be hereafter enacted.—Reg. XXVI, 1814, sec. xv, cl. 7.

108. Applicants for execution of decrees may file with their petitions an authenticated copy of the decree of which execution is sought to be taken out, and in such case it shall not be necessary to compare the petition with the decree contained in the original record of the suit, anything in the preceding paragraph to the contrary notwithstanding.—Act XXVI, 1852, sec. vi.

109. The decree is to be executed, if it be for a zemindarry, independent or dependent talook, or other estate or real property, by causing possession of the property to be delivered to the person to whom it may be decreed; if it be for personal property or a sum of money, by causing the specific thing to be delivered, or the value of it, or the sum of money decreed, to be levied by public sale by auction of a sufficient portion, or, if requisite for the satisfaction of the decree, the whole of the lands, houses, and all other effects, either real or personal, belonging to the party against whom the judgment may have been given, or by the attachment of his person, or where it may be necessary, both by the sale of his property and effects, and the attachment of his person.—Reg. IV, 1793, sec. vii.

110. Provided, however, that if the suit shall have been tried *ex-parte*, or that an interval of more than one year shall have elapsed between the date of the decree and the application for its execution, or that the enforcement of the decree shall be solicited against individuals being heirs or representatives of the original parties in the suit, or against one only of several individuals equally affected by the decree, or if there shall appear reason to believe that the matter in dispute has been adjusted by the parties subsequently to the decree, either by the voluntary surrender of the thing adjudged or by the payment of the sum decreed, either in whole or in part, by kistbundee or otherwise, it shall be competent to the court, instead of proceeding to the immediate enforcement of the decree, to issue a notice to the party against whom execution may be sued out, requiring

him to show cause, within a limited period to be fixed by the court, why the decree should not be executed against him. If upon such notice the party shall not attend in person or by vakeel, or shall not show sufficient cause to the satisfaction of the court why the decree should not be forthwith executed, the court will cause the judgment to be satisfied according to the rules in force. If the party shall attend in person or by vakeel and shall offer any objection to the enforcement of the decree, the court shall issue such order, after a due consideration of the circumstances of each case, as may appear just and proper.—Reg. XXVI, 1814, sec. xv. cl. 8.

111. The preceding rules shall not be construed to prevent the courts from issuing process of execution, for the purpose of recovering any fees or costs which may be due to Government. In such cases, as well as in suits in which a party may have been allowed to plead in *formâ pauperis*, the courts shall proceed without any application from the parties to enforce execution of the judgment, so far as relates to the recovery of the amount of fees or costs due to Government.—Reg. XXVI, 1814, sec. xv. cl. 9.

112. The provision of paragraph 110 was meant to be imperative in the cases referred to, and not to leave a discretion with the court; at the same time, with a view to guard against abuses, it is now further provided that whenever it may be shown, by satisfactory evidence, that the party against whom the decree was passed, or, in the event of his decease, his legal representative, who may have become answerable for the fulfilment of it, is about to remove or dispose of the property from which the judgment should be satisfied, the court shall be authorized to require security in such amount as may appear sufficient for making good the decree, and, in the event of such security not being given, to cause an attachment of property, as provided for in similar cases, whilst a suit is depending.—Reg. VII, 1825, sec. vii.

113. It shall be competent to the zillah and city judges to refer to the principal sudder ameens subordinate to them, applications for the enforcement of decrees, to be executed by the said principal sudder ameens, under the rules prescribed applicable to such cases.—Act V, 1836.

114. Every party who shall have obtained a judgment in any court of the East India Company, in any part of the territories under the government of the East India Company, or in any court established by the authority of the Governor-General of India in Council in the territory of any foreign prince or state, and who shall be unable to enforce or obtain satisfaction of the same by execution within the jurisdiction of such court, may enforce and obtain execution of the same in any part of the said territories under the government of the East India Company in the manner following.—Act XXXIII, 1852, sec. i.

115. The party may apply to the court which shall have pronounced such judgment for a copy thereof, and also for a certificate that satisfaction of such judgment has not been obtained by execution within the jurisdiction of the said court, also for a copy of any order for execution of such judgment that may have been passed, and, if necessary, for a translation of the said judgment and order for execution into the English language. The court, unless there be any sufficient reason to the contrary, shall cause such copy, and certificate, and translation, if necessary, to be furnished, and the same shall be signed by the judge, or one of the judges of the court, and sealed with the seal of the court.—Act XXXIII, 1852, sec. ii.

116. If such court shall be the principal civil court of original jurisdiction in the district, the judge shall describe himself accordingly in the certificate, and shall also name the court and the district.—Act XXXIII, 1852, sec. iii.

117. If the court shall not be the principal civil court of original jurisdiction in the district, the copy of the judgment and of the order for execution, if any, the certificate of the judge, and the translation, if any, shall, without delay, be transmitted to the principal civil court of original jurisdiction in the district, and the judge, or one of the judges of such court shall issue a certificate under his hand and the seal of the court, verifying the signature of the judge of the court in which the judgment shall have been given to the documents above mentioned; and in such certificate, the judge signing the same shall describe himself as the judge, or one of the judges of the principal civil court of the district, and shall also name the court and the district.—Act XXXIII, 1852, sec. iv.

118. All copies, translations, and certificates which may be furnished by or transmitted to the principal civil court of original jurisdiction in the district in which such judgment shall have been given, shall be transmitted by such court without delay to the principal civil court of original jurisdiction in the district in which the party may wish to have the judgment enforced or executed; and such court shall cause the said documents to be filed therein, without any proof of the judgment or order for execution, or of the copies thereof, or of the translations, if any, or of the seal or jurisdiction of any court, or of the signature of any judge, unless the court to which such documents shall be transmitted, shall, under any peculiar circumstances to be specified in an order, require the same.—Act XXXIII, 1852, sec. v.

119. The copy of any judgment, or of any order for execution, when filed in the court to which it shall be transmitted for the purpose of being executed or enforced as aforesaid, shall for such

purpose have the same effect as a judgment or order for execution made by such court, and may be enforced or executed by such court, or any court subordinate thereto, to which it may entrust the enforcement or execution thereof.—Act XXXIII, 1852, sec. vi.

120. When application shall be made to any of the said courts to enforce or execute the judgment of any other court as aforesaid, the court to which the application shall be made or referred shall proceed to enforce or execute the same according to its own rules and mode of procedure in like cases; and the last-mentioned court shall take cognizance of and punish all wrongful acts or irregularities done or committed in enforcing and executing such judgment; and all persons disobeying or obstructing the enforcement or execution of any such judgment shall be punishable by such last-mentioned court, in the same manner as if the said judgment had been pronounced by such court.—Act XXXIII, 1852, sec. vii.

121. The decrees, of which execution is to be general, of any military Courts of Requests holden within the said territories under the Government of the East India Company, or mentioned in section xvii, Act No. XI, 1841. ("MILITARY," paragraph 218), may be enforced in the manner provided by this Act. No such decree, however, shall be enforced under this Act against the person of the debtor, if a soldier. In the case of a decree of a military Court of Requests, the copy, decree, and certificate, and translation, if any, shall be signed by the officer commanding the station or cantonment, who shall describe himself accordingly; and no proof of the decree, or of the signature or appointment of such officer, or of the jurisdiction of the court, shall be necessary, unless the court to which the same may be presented shall think fit, under any peculiar circumstances to be specified in an order to require the same.—Act XXXIII, 1852, sec. viii.

122. A petition for execution under this Act of any judgment of a moonsiff's court, or of any decree of a military Court of Requests, may be written on plain paper.—Act XXXIII, 1852 .sec. ix.

123. An appeal shall lie from any order for the enforcement or execution of a judgment under this Act, in the same manner, and subject to the same rules and regulations as if the judgment had been originally given by the court making such order.—Act XXXIII, 1852, sec. x.

124. In paragraphs 114 to 123 the word "judgment" means a judgment in a civil suit or proceeding, and includes any final decree or order in a civil suit or proceeding. The word "party" shall include any person who would be entitled to maintain a suit upon the judgment. The masculine gender shall include the feminine, and the singular number shall include the plural.—Act XXXIII, 1852, sec. xi.

125. For the relief of insolvent debtors and their sureties, who may be in confinement for the satisfaction of the decrees of the civil courts, and may have no means of discharging the amount demandable from them by instalments or otherwise, the judges of the Zillah and City Courts, and the Court of Sudder Dewanny Adawlut, are further empowered, on receiving from the person or persons confined, in such cases, a statement upon oath or affirmation, containing a full and fair disclosure of all property belonging to them, whether in lands, money, or effects, or of whatever description, and whether held in their own names or in the names of any other person, or jointly with others, to cause inquiry to be made for the purpose of ascertaining the truth of such statement, or the validity of any objections thereto which may be offered by the party at whose instance the prisoner or prisoners may be in confinement; and if the result of such inquiry shall satisfy the court that the statement of property so delivered is true and faithful, and that the persons confined possess no other means of discharging the amount demandable from them, and the property included in the statement, or such part thereof as the court may deem it proper to sell in satisfaction of the judgment passed, shall be given up for sale, the court, on receiving such surrender of property, may cause it to be sold in the mode prescribed by the Regulations, and may order the release of the person or persons in confinement, either with or without hazirzamin security for his or their appearance when required. Provided, however, that nothing in this paragraph which is meant to grant relief in cases of real inability and fair dealing only, shall entitle any debtor or surety confined under the judgment of a civil court, to be released without full satisfaction of such judgment, if he shall be guilty of any fraudulent concealment of property, or shall have committed any manifest fraud or misdemeanor, which may appear to the court to render him an improper object of the relief intended for persons acting with good faith, and willing to surrender all the property in their possession for the benefit of their creditors. Nor shall release from confinement, in any instance, under this paragraph, prevent the creditor from bringing to sale (by application to the court), in full payment of the sum adjudged due to him, any property which may be subsequently possessed by the party released; or from causing such party to be again confined until the judgment be fully satisfied, when it may appear by sufficient proof that he had fraudulently concealed any property actually belonging to, and known to have been possessed by him, either in his own name, or that of others in his behalf, at the time of his discharge. Provided further, that

all proceedings held and orders passed by the judges of the Zillah and City Courts, under the discretion vested in them by this paragraph, shall, on representation of the parties affected thereby, be open to the final decision of the Sudder Dewanny Adawlut.—Reg. II, 1806, sec. xi.

126. With a view to prevent the protracted imprisonment of persons confined in execution of decrees for sums of inconsiderable amount, it is provided, in addition to the foregoing rule, that no person shall be liable to personal confinement, in satisfaction of a decree, for any sum not exceeding sixty-four rupees, beyond a period of six months; but that at the expiration of that period, any person so confined shall be entitled to be released. But any property which may belong to such person shall at all times, either during his imprisonment, or subsequently to his release, be liable to attachment and sale, for the purpose of realizing the amount of the judgment, or such part thereof as may remain due.—Reg. XXIII, 1814, sec. xlv, cl. 7.

127. If the defendant in any suit decided by the Court of Requests for the town of Calcutta, the plaintiff in which shall have obtained a judgment, shall retire, before execution of the same, into the jurisdiction of the judge of the zillah of the Twenty-four Pergunnahs, the judge of the said court, upon receiving a written application from the said plaintiff, either in person or by vakeel, setting forth the above circumstances, and accompanied by a copy of the judgment duly authenticated, is hereby authorised and directed to proceed to execute the said judgment in the mode prescribed by the existing Regulations for executing his own decrees.—Reg. XVI, 1812, sec. ii, cl. 1.

128. Provided always, that if the defendant in such case shall allege any cause against the execution of the judgment which shall appear to the judge to require the determination of the commissioners of the Court of Requests, the judge shall, upon such defendant entering into sufficient security to satisfy the judgment, if the judge should deem this precaution necessary, allow the said defendant a reasonable period to apply to the said commissioners; upon the expiration of which, unless the said defendant should produce an order properly authenticated from the said commissioners, certifying that the judgment ought not to be put into execution, the judge shall forthwith proceed to execute the judgment as prescribed in the preceding paragraph.—Reg. XVI, 1812, sec. ii, cl. 2.

129. Provided further, that no defendant who shall have been confined in the gaol of the said commissioners, and shall have been liberated under the rules established for the guidance of the said commissioners by the Governor-General in Council, on the 11th February, 1805, in consequence of having received diet money for a given period, shall again be confined by the judge of the zillah of the Twenty-four Pergunnahs in execution of the same judgment; but that, in all such cases, execution shall proceed against the property only of the defendant.—Reg. XVI, 1812, sec. ii, cl. 3.

130. If the defendant in any suit decided by any court of justice of the zillah of the Twenty-Four Pergunnahs, the plaintiff in which shall have obtained a decree, shall retire before execution of the same into the jurisdiction of the Court of Requests, that court, upon receiving a written application from the judge of Dewanny Adawlut of the zillah of the Twenty-four Pergunnahs, setting forth the above circumstances, and accompanied by a copy of the decree duly authenticated, is hereby authorised and directed to proceed to execute the said decree in the mode prescribed for the execution of judgments obtained in the Court of Requests, and on payment of the like costs as are demanded for the execution of such judgments in ordinary cases: Provided always, that nothing in this Act contained shall be held to authorise the said Court of Requests, to execute any decree except the cause of action in respect of which such decree was obtained were such that, if it had occurred within the local jurisdiction of the said court, it would have been cognizable by the same.—Act XXVII, 1839.

### SALES IN EXECUTION OF DECREES BY THE COURTS THEMSELVES EXCEPT IN THE NORTH-WESTERN PROVINCES.

131. In the territories subject to the presidency of Fort William in Bengal, except the North-West Provinces, attachments and sales of land, or of any interest in land, in satisfaction of the decrees or other process of the Courts of Civil Judicature, shall be made by such courts, or under their directions, and the rules now in force for the attachment and sale of such real property as the Courts of Civil Judicature are now authorized to sell in satisfaction of decrees, without application to the revenue authorities, shall apply to attachments and sales made under the authority of this Act.—Act IV, 1846, sec. iii.

132. The judges of the Zillah and City Courts, who usually employ the nazirs of those courts, or the sudder ameens at the station of the judge, and the local moonsiffs in other parts of their jurisdictions, to conduct the public sale of personal property in execution of decrees or other judicial process, are authorized to employ the same officers, when it may appear expedient, in the

public sale of houses, gardens, orchards, or small portions of lakheraj land, under the provisions of this Regulation.—Reg. VII, 1825, sec. iii, cl. 1.

133. In all cases of attachment and intended sale, whether of personal property or of the landed property above described, in execution of any decree or other judicial process, a proclamation of the intended sale, with particulars of the time and place of sale, of the property to be sold, and of the amount due, for the recovery of which the sale is ordered, shall be made in the current language of the country, for at least thirty days before the appointed day of sale, exclusive of the day of sale and the date on which the proclamation may be ordered. Such proclamation shall be made in the usual mode, by beat of drum, on the spot where the property is attached; and a written notification to the same effect shall also be affixed in some conspicuous place within the village or town in which the attachment may take place, as well as in the cutcherry of the local moonsiff; and at the cutcherries of the collector of the district, and the zillah judge or other officer who may have ordered the sale. When the sale is to be made by a sudder ameen, the notification shall also be affixed in the cutcherry of such sudder ameen.—Reg. VII, 1825, sec. iii, cl. 2.

134. The usual processes for attachment and sale, in such cases, may either be issued successively or simultaneously, as the judge or other judicial officer, directing the sale, may in each instance think proper, with reference to the circumstances of the case. But no sale shall in any instance take place without a previous proclamation, for the period specified in the preceding paragraph; and any material irregularity in the sale, which may be established, on a summary inquiry, to the satisfaction of the judge, or other officer, by whom the sale may have been ordered, shall be sufficient to invalidate the sale; provided that a petition, written on the stamped paper required for miscellaneous petitions to the Zillah and City Courts, and stating circumstantially the irregularity which may have taken place, be presented to the judge, or other officer, by whom the sale may have been ordered, within one month after the sale.—Reg. VII, 1825, sec. iii, cl. 3.

135. Whenever a public sale may be set aside as invalid under the preceding paragraph, or on any account whatever, and no collusion or fraud shall appear on the part of the purchaser, he shall be entitled to receive back his purchase-money, on restoring any property delivered over to him, with or without interest, in such manner as it may appear proper to direct in each instance.—Reg. VII, 1825, sec. iii, cl. 4.

136. The summary decision passed by the zillah or city judges, under the preceding paragraphs, shall be open to a summary appeal to the Sudder Dewanny Adawlut, under the general rules for such appeals.—Reg. VII, 1825, sec iii, cl. 5.

137. In the event of any claim being preferred to the property advertised for sale, under the provisions of the preceding paragraphs; or of any objection being offered to the proposed sale, within the period of the proclamation; such claim or objection shall be inquired into by the judge, or other officer, who may have ordered the sale, or may be referred for inquiry and report to a sudder ameen or local moonsiff; and if it appear necessary, the time of sale shall be postponed till such claim or objection have been investigated; provided that the representation of it (which, in all instances, is required to be preferred to the judge or officer ordering the sale, as soon as practicable after the publication of the intended sale) shall not appear to have been designedly and unnecessarily delayed, with a view to obstruct the ends of justice. In such cases, when the fraudulent design may appear evident, the sale shall not be postponed; and the claimant shall be left to prosecute his claim, after the sale, by a regular civil suit.—Reg. VII, 1825, sec. iii, cl. 6.

138. In all cases of a public sale of property, under the foregoing rules, it shall be clearly explained to the bidders at the sale, that nothing is guaranteed to them in the land, or other property sold, beyond the rights and interests therein of the individuals answerable for the amount of the decree, or other process, in execution of which the sale is made.—Reg. VII, 1825, sec. iii, cl. 7.

139. Whenever a holder of a decree of any Court of Civil Judicature shall apply to such court for the sale in execution of any estate paying revenue to Government, or any portion of such estate, he shall, at the time of making such application, file an authenticated extract from the register of the collector's office, specifying the jumma of such estate, which shall be inserted in the notification of sale.—Act IV, 1846, sec. iv.

140. The purchaser at any such sale shall be required to deposit immediately, either in cash, Bank of Bengal notes, or post bills, or Government securities duly indorsed, fifteen per cent. on the amount of his bid, and in default of such deposit, such land or interest therein shall forthwith be put up again and sold; and if the purchaser, having paid the deposit required, shall neglect or refuse to pay the purchase money within the period which may be stipulated, the deposit shall be forfeited and shall be applied to defray the expenses of the sale, and the surplus shall be forfeited to Government, and the land, or interest therein, or such portion thereof as may be sufficient to satisfy what remains due, shall be again put up to sale, due notification having been first given.—Act IV, 1846, sec. v; Act XXV, 1850, sec. ii.

141. The judges of the several civil courts are authorized to require the aid of the local

collector in the enforcement of all decrees which may be passed by them, or which may be sent to them for enforcement by the Superior Courts, affecting the proprietary right to, or possession of, any lands paying revenue to Government, or held exempt from the payment of revenue, whenever it may appear conducive to their speedy and complete execution, whether by giving possession to the parties entitled thereto, or by the adjustment of a wasilaut account, or otherwise.—Reg. VII, 1825, sec. vi.

### SALES IN EXECUTION OF DECREES BY THE COLLECTORS IN THE NORTH-WESTERN PROVINCES.

142. In the north-west provinces of the territories subject to the presidency of Fort-William in Bengal, attachments and sales of land, or of any interest in land, in satisfaction of the decrees or other process of the Courts of Civil Judicature, shall (except in the case of land, which the courts themselves are now by law authorized to attach and sell) be made by the collector, or any of his subordinate officers under his directions, upon the requisition of such courts.—Act IV, 1846, sec. vi.

143. Every such requisition shall specify the number of the suit, the court which made the decree, the amount to be realized, the names of the parties, distinguishing those whose land or interest it is intended to sell, and the amount for which each is liable, if they are severally liable, and the land or interest which each is alleged in the schedule of the party applying for execution to be possessed of.—Act IV, 1846, sec. vii.

144. The collector shall issue a proclamation in the current language of the country of any intended sale of land, or any interest therein, thirty days at least before the day appointed for the sale, exclusive of the day of sale, and of the day on which the proclamation is issued; and the said proclamation shall specify the name of the person whose land or whose rights and interest in certain land are to be sold, and the jumma of the estate constituting the property, or in which the property is situate; also, particulars of the property to be sold, of the time and place of sale, and of the amount due for the recovery of which the sale is ordered, and such proclamation shall be fixed up in some conspicuous place within the village or town in which the said land is situate, or which is nearest to the said land, and in the cutcherries of the local moonsiff, of the collector, of the zillah or city judge, and of the court from which the requisition issued.—Act IV, 1846, sec. viii.

145. The provisions contained in paragraph 140 shall be applicable to sales of land, or any interest in land, in execution of decrees of court or other judicial process.—Act IV, 1846, sec. ix.

146. The provision contained in paragraph 138, shall be considered applicable to all public sales of land made by the collectors, or other officers of Government, in the revenue department in execution of decrees of the courts of judicial process; and the following additional rules are prescribed respecting such sales, in modification of those now in force.—Reg. VII, 1825, sec. iv, cl. 1.

147. In the event of any claim being preferred, or objection offered to the collector, against the sale of the lands proposed to be sold, as not belonging to the person or persons answerable for the amount of the decree or other process to be enforced, and consequently not liable to be sold in execution thereof, the collector shall communicate such claim, or objection, with any information which his official records may enable him to furnish on the subject, to the court which may have applied for the sale; and shall be guided by the instructions which he may receive in answer, whether to proceed with the sale, or otherwise.—Reg. VII, 1825, sec. iv, cl. 4.

148. In all cases of a claim, or objection being communicated by a collector to the court enforcing a decree or other process under the foregoing paragraph, or of a claim to lands proposed for sale in execution of judicial process, being received from the claimant, by the judge or other officer who may have required the sale, it shall be his duty to enter upon an immediate summary inquiry into the truth and foundation of such claim; and if it appear proper, he shall instruct the collector to postpone the intended sale until such inquiry shall have been completed: Provided, however that such postponement shall not be necessary when the claim or objection may not have been preferred within a reasonable time after the collector's publication of the intended sale, and may appear to have been intentionally delayed, with a view to obstruct the sale. In such cases the court may order the sale to take place, and refer the claimant to a regular suit in prosecution of his claim.—Reg. VII, 1825, sec. iv, cl. 5.

149. A doubt having been entertained, whether public sales of land made by the revenue officers of Government, in satisfaction of decrees or other process of the Court of Judicature, can be summarily set aside without a regular civil suit, or proof of irregularity in publishing and conducting the sale, or otherwise; it is hereby declared, that the Zillah or City Court, or other judicial authority who may have ordered the sale in such cases, shall be competent to declare the

same null and void, and to order a re-sale in the mode prescribed by the Regulations, if, on summary inquiry, any material deviation therefrom, and consequent irregularity in the sale, be satisfactorily established; provided that a petition containing a circumstantial statement of such irregularity, and written on the stamped paper required for miscellaneous petitions in the Zillah and City Courts, be presented to the court by which the sale may have been ordered, within a month after the sale. In such cases the court directing the sale to be set aside shall further be competent to direct a return of the purchase-money, with or without interest, as provided for in similar cases by Paragraph 135.—Reg. VII, 1825, sec. v, cl. 1.

150. The summary decisions passed under this section shall be open to a summary appeal to the Sudder Dewanny Adawlut, under the general rules for such appeals.—Reg. VII, 1825, sec. v. cl. 2.

### SALES IN EXECUTION OF DECREES—RULES COMMON TO ALL TERRITORIES.

151. The rules contained in the Regulations shall not be considered applicable to the sale of houses, gardens, orchards, and small portions of land held exempt from the public assessment; the sale of which, when requisite in execution of any decree, or other judicial process, shall be made as heretofore, by order of the court or officer empowered to enforce the decree or process, without application to the Board of Revenue, or the collector of the district, or other officer in the revenue department.—Reg. VII, 1825, sec. ii, cl. 2.

152 The judge, or other officer, empowered under the Regulations to enforce a decree or other judicial process by a sale of property, is authorized to cause the public sale of any house, garden, orchard, or small portion of lakheraj land, which may be liable to be sold in execution of the decree, or other process, in like manner as he is authorized to cause the public sale of any personal property liable to be sold in execution of the same.—Reg. VII, 1825, sec. ii, cl. 3.

153. Sales of land, or of any interest in land, in execution of decrees of court, or other judicial process, shall be of the nature of private transfers.—Act. IV, 1846, sec. x.

154. The Courts of Sudder Dewanny Adawlut shall, from time to time, frame such rules as to them shall seem meet, and as shall not be repugnant to anything in this Act contained, for the attachment and sale of property in satisfaction of decrees or other process of the Courts of Civil Judicature, which rules shall, after they have been approved by the Governor-General of India in Council, have the same force as if they had been part of this Act, until revoked by the said Courts of Sudder Dewanny Adawlut with the approbation of the said Governor-General of India in Council, or by the said Governor-General of India in Council.—Act IV, 1846, sec. xi.

155. All applications which may have been made by the Courts of Civil Judicature to the revenue authorities for the sale of land, or of any interest in land, in satisfaction of decrees or other process of such courts, previously to the passing of this Act, shall be proceeded upon as if this Act had not been passed.—Act IV, 1846, sec. xii.

### SECURITY AFTER DECREE.

156. Whenever a person claiming the proprietary right in land, houses, or other immoveable property not in his possession, shall obtain a decree, upon investigation of the merits of the case, the Court, before which the suit may be tried in the first instance, adjudging him to be the proprietor of such lands, houses, or other immoveable property, he shall obtain possession thereof in execution of such decree, notwithstanding an appeal therefrom, provided he shall give good and sufficient security for performing the decree which may be passed upon the appeal, in a sum equal to one year's produce of the property adjudged, if malgoozarry land, or ten years' produce if the land be lakheraj, or the computed value, if it be a house, or immoveable property of any other description.—Reg. XIII, 1808, sec. xi, cl. 2.

157. Provided, however, that if the court to which the appeal may be preferred in such cases, shall, in any instance, see special cause for leaving the appellant in possession during the appeal, it shall be competent to that court to order the same; requiring, in such case, from the appellant, the same security as is above required to be given by the respondent.—Reg. XIII, 1808, sec. xi, cl. 3.

158. Provided further, that whether the appellant or respondent be left in possession of lands paying revenue to Government during an appeal, if the party in possession of such lands shall

neglect to pay the revenue due upon the assessment, and a public sale shall in consequence be ordered to take place, the party not in possession, by payment of the revenue due, and giving the prescribed security previously to the sale, shall be put in immediate possession, and shall be entitled to charge the amount so paid, with interest thereupon at the rate of one per cent. per mensem, in any adjustment of accounts which may be directed in the final decree upon the cause.—Reg. XIII, 1808, sec. xi, cl. 4.

159. Notwithstanding the appellants, in causes depending before the Sudder Dewanny Adawlut and the Zillah Courts, may have entered into the security required of them, those courts are authorized, in cases wherein, from the delay in the decision, the security so given may appear insufficient, on the application of the respondent or respondents in all such cases, to require any additional security which they may deem necessary to secure the party who may have obtained a judgment in his favour, from any loss by the non-execution of such judgment during the appeal; and in default of such further security being given within a reasonable period, to be fixed for that purpose, the courts are empowered to direct the judgment in question to be carried into execution, in like manner as if no security had been given by the appellant; provided that, in such cases, good and sufficient security, as prescribed by the Regulations, be given by the respondent, previous to his being put in possession of the property in litigation.—Reg. V, 1798, sec. iii.

160. If during the trial of an appeal, the Court, before whom such appeal may be depending, shall see ground to believe that the security taken from the respondent is insufficient, it is authorized and required to take from him such further security as it may judge necessary. In all cases of appeal to the Sudder Dewanny Adawlut, that court is also authorized to take any additional security it may judge necessary, as provided with respect to security for staying the execution of decrees by the preceding paragraph.—Reg. III, 1802, sec. ii.

161. In all instances wherein the plaintiff, in any of the established courts of justice, may obtain a judgment in his favour for land or other real property, and the defendant appealing therefrom to a superior court may be left in possession of the property, under the security prescribed by the Regulations, any private transfer of such property by sale, gift, or otherwise, or any mortgage thereof which might be made by such appellant during an appeal, whether regular or special, would, in the event of the judgment against him being confirmed on the appeal, be of course, and is declared to be, null and void; but as mulguzarry lands (lands assessed with the public revenue) are in all cases, by whomsoever possessed, held answerable for the public revenue assessed thereon, and as, according to the general rules established for the collection of the public revenue, such lands, and also lakheraj lands, and other property appertaining to the same estate, may become liable to sale by Government, from the neglect of the party in possession to discharge the revenue due therefrom, by which sale, in cases of appeal, the party to whom the property of the lands is ultimately adjudged might notwithstanding be deprived of it, unless he purchased the same at the public sale; to obviate all doubt respecting the right of the party making the purchase in such cases, it is hereby declared, that whenever any land or other property, for which a judgment may have been obtained in any of the established courts of justice, but which, during an appeal from such judgment by the party cast, may be left in the possession of the appellant, shall, while such appeal is pending, or before the ultimate judgment thereon, be put in execution, be sold by Government to make good an arrear of the public revenue due from the appellant, and shall be purchased by the respondent, the party so purchasing, in the event of such property being finally adjudged to him on the appeal, shall be entitled to recover from the appellant, so left in possession, the full amount of his purchase-money, and of all expenses attending the purchase so made by him, with interest thereon at the rate of twelve per cent. per annum, in addition to any other sum which may be adjudged due to him on account of the profits arising from the land, or other property in question, anterior to the sale. It is further declared, that in the case above supposed, if the respondent shall not have purchased the land or other property sold by Government to make good an arrear of public revenue due from the appellant left in possession thereof, and if the ultimate judgment on the appeal be in favour of such respondent, he shall be entitled to recover from the appellant left in possession the amount of the purchase-money paid for the property so sold and adjudged to the respondent, with interest thereon at the rate of twelve per cent. per annum, in addition to any other sum which may be adjudged to him on account of the profits arising from the property so sold anterior to the sale of it; unless the property in question shall have been directly or indirectly purchased by the appellant himself, or in his behalf, at the public sale; in which case, on clear proof thereof being made by the respondent to whom such property may be ultimately adjudged, he shall be entitled to the possession thereof, and to all profits arising therefrom, as may be directed by the decree in the case, notwithstanding the fictitious sale supposed.—Reg. V, 1798, sec. iv.

162. The principles of the preceding rules are to be considered equally applicable to cases in which the plaintiff may be put in possession of land or other property adjudged to him, during an appeal; and generally, to all cases in which the possession of property may be transferred by the

decree of any court of justice, from which decree an appeal may be depending in a superior court. —Reg. V. 1798, sec. v.

163. As cases may occur wherein neither the appellant nor the respondent may be able to give the prescribed security for staying the execution of decrees, or for the execution thereof in favour of the plaintiff, in all such cases, the property adjudged shall be held in attachment during the appeal, or until such time as one of the parties may be able to give the required security by the collector of the district wherein the land may be situated, at the expense of the party who may be ultimately declared entitled thereto; and under the provisions relative to the attachment of lands for sale in pursuance of decrees of the courts of justice, as far as the same are applicable. No attachment however, is to be made by any collector in the cases herein supposed, until he receive a precept, requiring him to make the same, from the court wherein the original judgment in the cause may have been passed; which precept shall state specifically the property to be included in the attachment, and shall require the collector to continue the same till ordered to be withdrawn by a further precept from the court, to be issued either on the prescribed security being given by one of the parties, or on the cause being finally determined.—Reg. V, 1798, sec. vi.

164. All persons who may enter into security bonds for the execution of decrees of the civil courts, or for staying the execution of judgments in civil suits during an appeal in such suits, are prohibited from transferring, or from causing to be transferred, by sale, gift, mortgage, or otherwise, any land or other immoveable property belonging to them, and specified in the schedule of property on which their security may have been accepted, until the object of their security shall have been completely fulfilled.—Reg. XXVI, 1814, sec. xiii, cl. 2.

165. This prohibition, however, shall not be construed to affect the legality of any private transfer or mortgage of such property, in cases in which the amount of any demand on the surety, which may eventually arise under the terms of the security bond, shall be duly discharged by him; but it is hereby declared, that no private transfer or mortgage of such property which may be made by a surety in the interval between the execution of the security bond and the final and complete enforcement of the judgment, shall be considered to bar the prior right of the court to hold the whole or any part of such property answerable in the first instance for the amount of any demand upon it which may eventually arise under the terms of the security bond, and which may not be duly discharged by the surety.—Reg. XXVI, 1814, sec. xiii, cl. 3.

166. Decrees for money or other moveable property, shall be stayed or enforced in cases of appeal, according to the rules now established, with the following addition thereto.—Reg. XIII, 1808, sec. xii, cl. 1.

167. The security to be given by appellants for staying the execution of decrees appealed from, in cases of money or other moveable property, or by respondents, when such decrees are carried into execution during an appeal, shall be sufficient, in addition to the amount or value adjudged, to cover the interest that may be expected to arise upon the amount payable under the decree, if confirmed in appeal, according to the provision for adjudging interest in such cases.—Reg. XIII, 1808, sec. xii, cl. 2.

168. The provisions of sections v and vi, Regulation II, 1806 (paragraphs 11 to 14), shall be held applicable in all cases wherein an attachment of property made by a court in an original suit may be continued during the trial of an appeal before a superior court, or in which such superior court may judge it proper to order an attachment of property in default of security being given, as required, either by the appellant or respondent in any depending appeal.—Reg. II, 1806, sec. vii.

169. The judges of the several courts by which security may be taken from appellants or respondents for performing the decrees to be passed on appeals, are enjoined to be particularly careful in ascertaining that the security received is good and sufficient; and they are required, in all cases, to cause the nazir or other officers by whom the property of the sureties may be ascertained, to deliver in as accurate a statement as can be obtained of such property, with a full report of the inquiry made respecting it, informing him, at the same time, that he will be held responsible for any wilful misrepresentation in his statement or report.—Reg. XIII, 1808, sec. xiii.

170. When personal bail or security for money or other property may be demandable from a party in any original civil suit or appeal, and he shall tender a deposit of money or of promissory notes, or other obligations of Government, or any other sufficient money security, to the amount required, such deposit shall be accepted instead of hazirzaminy or malzaminy securities, and shall be carefully kept by the treasurer of the court, to be restored or disposed of as the court may direct on the termination of the cause, or whenever the purpose for which the deposit is made shall have been accomplished.—Reg. II, 1806, sec. viii.

171. It shall not be necessary in any Court of Appeal of the East India Company to take any security for costs, but it shall be in the discretion of every such Court of Appeal to demand security for costs from the appellant or not, as it shall see fit, before the respondent is called upon to answer; any law or regulation to the contrary notwithstanding.—Act III, 1846.

### REVIEW OF JUDGMENT.

172. Any persons considering themselves aggrieved by a decree passed in a regular civil suit or appeal by a Zillah Court, or a principal sudder ameen, from which decree no further appeal may have been admitted by a superior court, and who, from the discovery of new matter or evidence which was not within their knowledge, or could not be adduced by them at the time when the decree was passed, or from any other good and sufficient reason, may be desirous of obtaining a review of the judgment passed against them, are at liberty to present a petition for this purpose to the court in which the decree in question may have been passed. Such petition shall be written on stamped paper, of the value prescribed No. 7, Sched. B, Reg. X, 1829, and shall be presented within the period of three calendar months from the delivery or tender of the decree, calculated according to the provisions of clause tenth, section viii, Regulation XXVI, 1814. The courts are, nevertheless, authorized to admit applications for a review after the period above-mentioned, provided that the parties preferring the same shall be able to show just and reasonable cause, to the satisfaction of the court, for not having preferred such application within the limited period. In such case, however, the courts are enjoined to proceed with caution, and to state at large upon the proceedings their reasons for admitting such applications after the limited period. If the courts shall be of opinion that there are not any sufficient grounds for a review, they shall reject the petition, and their order to that effect shall be final; but if, on the contrary, they shall be of opinion, that the review desired is necessary to correct an evident error or omission, or is otherwise requisite for the ends of justice, they shall report the same to the Sudder Dewanny Adawlut, transmitting at the same time a statement of the grounds of their opinion, with a copy of the petition presented to them, and a copy of the decree passed in the case. If the principal sudder ameen shall be of opinion that the review applied for ought to be admitted, he shall report the case to the zillah or city judge, who is authorized to grant permission under the same rules as are prescribed by the existing Regulations in cases where similar applications may be made to the court of Sudder Dewanny Adawlut.—Reg. XXVI, 1814, sec. iv, cl. 2; Reg. V, 1831, sec. xix, cl. 2.

173. The foregoing rule shall be also applicable to the courts of sudder ameens and moonsiffs: Provided always, that if a sudder ameen or moonsiff shall be of opinion that a review of his judgment ought to be granted, he shall report the case to the judge, who is authorized to permit such review, under the same rules as are prescribed by the existing Regulations with respect to similar application to the court of Sudder Dewanny Adawlut.—Act XXVI, 1852, sec. iii.

174. The court of Sudder Dewanny Adawlut, in cases referred to them under paragraph 172, as well as in all cases in which a petition may be presented to them for a revision of their own judgments, which may not have been appealed to the Queen in Council (or though appealed, the proceedings in which may not have been transmitted to the Queen in Council), are authorised to grant the review desired, if upon a consideration of the reasons stated, the circumstances of the case shall appear in justice to require it. The Sudder Dewanny Adawlut shall record on their proceedings the grounds upon which a review may be granted by them in each instance, and shall issue any instructions regarding the admission or rejection of new evidence in the case, which they may deem just and proper.—Reg. XXVI, 1814, sec. iv, cl. 3.

175. The order of a Zillah or City Court, or of a principal sudder ameen, or of the Sudder Dewanny Adawlut, rejecting the petition for a review in the first instance, or of the latter court refusing to sanction a review when applied for by a lower court, shall not be construed to preclude the party from instituting a regular appeal (if the case be appealable) in a competent court, subject to the conditions and rules prescribed by the Regulations in force for the admission of such appeals. —Reg. XXVI. 1814, sec. iv, cl. 4.

176. Whenever the petition for a review of judgment may be presented after the period of three months from the delivery or tender of the decree, it shall be written upon the stamped paper prescribed in No. 8, Sched. B, Reg. X, 1829, with reference to the amount or value of the property adjudged against the party desiring the revision, in like manner as if a regular appeal were preferred from such judgment, unless the party desiring the review be a pauper, in which case the provisions relative to pauper appellants, contained in Reg. XXVIII, 1814, shall be held applicable. —Reg. II, 1825, sec. ii, cl. 1.

177. If the petition for a review of judgment shall be rejected by the court receiving the same, as not containing sufficient grounds for the review desired, the petitioner shall not be entitled to receive back the amount of the stamp duty paid for the paper on which the petition may have been written; but in the event of its having been written on the stamped paper prescribed in No. 8, Sched. B, Reg. X, 1829, the court rejecting the petition is vested with a discretionary authority in any particular instance, wherein the forfeiture of the entire stamp duty may appear excessive on due consideration of the circumstances of the case, to order the refund

of any portion thereof, not exceeding three-fourths of the total amount, from the public treasury.—Reg. II, 1825, sec. ii, cl. 2.

178. When the rejected petition may have been written on the stamped paper prescribed in No. 7, Sched. B, Reg. X, 1829, and shall be found, by the court rejecting it, groundless and litigious, so as to merit a fine, in addition to the small stamp duty paid in conformity with that section, the court is authorized and required to impose such fine as may be proportionate to the circumstances of the case, and the condition of the party, not exceeding the amount of the stamp duty which would have been payable if the petition had been written on the stamped paper prescribed in No. 8, Sched. B, Reg. X, 1829; Reg. II, 1825, sec. ii, cl. 4.

179. When the petition for a review of judgment may be admitted, the court reviewing the case will, on deciding it, pass such order relative to the stamp duty paid by the petitioner as may appear just and proper, whether for his reimbursement by the opposite party as part of the costs of suit, or for the refund of any portion of it, not exceeding three-fourths, by Government.—Reg. II, 1825, sec. ii, cl. 4.

180. Whenever the judge or judges who may have passed the decree, or if the decree have been passed by two or more judges of the Sudder Dewanny Adawlut, when any of such judges shall continue attached to the court at the time when the petition for a review is received, and shall not be precluded, by absence or other cause, for a period of six months after the receipt of the petition, from considering and recording his order or opinion upon the same, it shall not be competent to any other judge or judges of the same court to enter upon a consideration of the merits of the petition, and record an order or opinion thereupon, it being the obvious intention of the rules referred to, that application for a review of judgment made in pursuance thereof, should, as far as practicable, be received and disposed of by the judge or judges who may have passed the decision; subject to the regular course of appeal, if the case be appealable to a superior court. Provided, however, that this restriction shall not be considered applicable to cases not open to a further appeal, in which a single judge of the court of Sudder Dewanny Adawlut may appear, on the face of the decree, to have exceeded the powers vested in him by the Regulations. In such cases, the decree being imperfect and irregular, it shall be competent to a majority of the judges of the Court of Sudder Dewanny Adawlut, concurring in opinion as to such irregularity, to proceed upon the petition for a review, in the manner prescribed.—Reg. II, 1825, sec. iii.

181. Applications for review of judgments passed by principal sudder ameens in suits exceeding in amount or value the sum of 5,000 rupees shall be made by such principal sudder ameens directly to the Court of Sudder Dewanny Adawlut, and shall be conducted in all respects as applications for review of judgments of zillah judges.—Act XXV, 1837, sec. iv.

### REFERENCE TO COLLECTOR ON REVENUE ACCOUNTS.

182. In causes concerning rent or revenue, or other matters heretofore cognizable in the Courts of Maal Adawlut, between proprietors of land, or farmers of land holding their farms immediately of Government, and their respective dependent talookdars, under-farmers, or ryots; or between dependent talookdars, and their under-farmers, or ryots; or between under-farmers, farming lands of proprietors of land, or of farmers of land who farm their lands immediately of Government, or of dependent talookdars, and their dependent talookdars, under-farmers, or ryots; or between other persons concerned in the collection or payment of land rents or revenues, either as principals or sureties; the judge is empowered to refer to the collector for his report, any accounts, the adjustment of which may be necessary towards the decision of the suit. The reference is to be made to the collector by a precept under the signature of the judge and the seal of the court, in which shall be specified the accounts referred, and the papers which the judge may think it necessary to send in elucidation of them, and the time by which the report is to be made. The judge may likewise command the parties or their vakeels, and any witnesses they may have to produce, to appear before the collector, that he may examine them regarding the accounts, and also empower the collector to administer the customary oaths or affirmations to the witnesses, or to examine the parties on oath or affirmation, if they shall agree to be so examined. The collector shall submit his report on the accounts to the court by the prescribed time, attested by his official seal and signature, or assign his reasons for not having been able to complete it by the period directed. The judge, upon the receipt of the collector's report, shall either confirm, set aside, or alter his adjustment of the accounts, or pass such decision respecting them as may appear to him proper. But the rules in this section are not to extend to empower the judge to refer to the collector any accounts relating to suits in which he or any of his public officers, or private servants, or Government may be a party.—Reg. VIII, 1794, sec. xiii.

## SPECIAL RULES IN NATIVE COURTS.

### MOONSIFFS.

183. All laws and rules now in force relating to the mode of procedure in the trial and decision of original civil suits in the courts of the judges and principal sudder ameens shall also apply to and regulate the mode of procedure in the trial and decision of original civil suits in the courts of the sudder ameens and moonsiffs.—Act XXVI, 1852, sec. ii.

184. Moonsiffs are themselves to investigate the suits cognizable by them in a public cutcherry or court room, and are not to allow their officers, servants, or dependants, or any other person, to interfere therein.—Reg. XXIII, 1814, sec. xiv.

185. The moonsiffs are to try the suits depending before them by hearing the pleadings of the parties, by examining their documents, and by taking the depositions of their witnesses, in the presence of the parties or of their vakeels duly constituted. They may also examine the truth of the claim by the oaths or affirmations of the parties, if they mutually consent to that mode of examination.—Reg. XXIII, 1814, sec. xxviii.

186. It shall be the duty of the moonsiff or sudder ameen to restrain and discourage, as much as possible, the insertion in the plaint of irrelevant matter and of terms of abuse and reproach against the character of the defendants or others. The plaint shall be signed and numbered, and dated in the order in which it may be received by the moonsiff or sudder ameen, and the number of the suit, the names of the parties, the date on which the petition is received, the amount claimed, and the subject-matter of the suit, shall be carefully entered in a book to be kept by the moonsiff or sudder ameen. With a view to ascertain that the register-books are regularly kept, and that depending suits are brought to a hearing according to their order on the file, the zillah and city judges are respectively required to inspect them once at least in each year, and for this purpose shall require the several moonsiffs or sudder ameens to transmit them to the court either during the period of the Dussera or Mohurrem vacation as may be most convenient.—Reg. XXIII, 1814, secs. xviii. and lxxiii.

187. The moonsiffs and sudder ameens shall try all suits depending before them in the order in which they have been filed or numbered; provided, however, that the zillah or city judge be at all times authorized, either upon a report from the moonsiff or sudder ameen or upon other grounds of information, to direct the moonsiff or sudder ameen, to bring any particular suit or suits to a hearing and determination without attending to the regular order of the file.—Reg. XXIII, 1814, secs. xxvi. and lxxiii.

188. In the examination of witnesses, the moonsiffs are enjoined carefully to prevent the parties and their vakeels or agents from instructing or intimidating the witnesses, or from putting to them leading questions, or questions suggesting a particular answer: questions, also, with regard to the personal character of the parties, or on points evidently irrelevant to the matter in dispute, are to be avoided as much as possible.—Reg. XXIII, 1814, sec. xxxvi.

189. The moonsiffs and sudder ameens are strictly prohibited from confining or otherwise punishing witnesses; and they are enjoined to take the depositions of witnesses attending before them with all due expedition, so that they may not be exposed to any vexatious delay or unnecessary detention from their respective homes and employments.—Reg. XXIII, 1814, secs. xxxiii. and lxxiii.

NOTE.—This section is repealed as far as it is inconsistent with Act XIX, 1853, by sec. ii of that Act.

190. No fees shall be levied on exhibits filed before the moonsiffs and sudder ameens, and exhibits shall be received in suits depending before those officers respectively without any derkhast or written application for that purpose.—Reg. XXIII, 1814, sec. xxxviii, cl. 1, and sec. lxxiii.

191. When an exhibit is filed in a suit before the moonsiff or sudder ameen, it shall be dated and signed or sealed by him, and shall be marked with some letter or number to identify it, and such letter or number shall be distinctly referred to in those parts of the depositions of the witnesses, or of the proceedings, or of the decree, as may allude to such exhibit.—Reg. XXIII, 1814, sec. xxxviii, cl. 3, and sec. lxxiii.

192. When the defendant may be a person employed in the departments of salt or opium the notice to be served on the defendant shall be inclosed within a sealed cover, addressed to the agent, or to the assistant, or to the gomastah, ameen, or head officer of the nearest aurung, kothee, or choukee, subordinate to them, and shall be superscribed with the official seal and signature of the moonsiff. The agent, or his assistant or head native officer, shall cause the notice to be duly served and acknowledged by the defendant, and shall then return it to the moonsiff.—Reg. XXIII, 1814, sec. xx.

193. If any individual whose evidence is required shall be a person employed in the provision of salt and opium under the agents of Government, the summons shall be served in the same manner as is prescribed in the preceding paragraph respecting the issue of notice to a defendant. The moonsiffs will be careful not to summons such persons unnecessarily, and on their attendance shall cause them to be examined and dismissed with all possible despatch.—Reg. XXIII, 1814, sec. xxx.

194. If any moonsiff shall require the evidence of a person not within his local jurisdiction, and such person shall not attend at the requisition of the parties, the moonsiff shall issue the necessary process for procuring the attendance of such person, and send the same to the moonsiff within whose local jurisdiction such person is, who shall indorse such process and cause it to be duly served and executed.—Act XVII, 1845, sec. ii.

195. All powers now exercised by zillah judges for enforcing the attendance of any person upon whom a summons to appear as a witness has been duly served, and who has failed to attend in their courts, shall be exercised by moonsiffs for enforcing the attendance of any person upon whom a summons to appear as a witness has been duly served, and who has failed to attend in their courts. Provided that all orders passed by moonsiffs shall be subject to an appeal to the zillah or city judge, whose decision thereon shall be final.—Act XVII, 1845, sec. iii.

196. When the decision shall have been passed, the moonsiff or sudder ameen shall cause two copies of it to be prepared, and after attesting them with his seal and signature, shall, within one week after the date of the decree, tender the said copies in open cutcherry, both to the plaintiff and defendant, or to their vakeels respectively. He shall indorse on the back of the said copies the actual date on which they may be tendered to the parties in open cutcherry; and if either or both of the parties shall fail to attend, or shall refuse to receive the copies so tendered, he shall certify the same on the back of the copies.—Reg. XXIII, 1814, sec. xli, cl. 1, and sec. lxxiii.

197. Any moonsiff or sudder ameen who may be guilty of wilfully misstating or falsifying, or of causing to be misstated or falsified, the date and purport of the indorsement above directed to be written on the copies of the decrees, or of keeping back such copies of decrees from either of the parties, with the view of defeating or opposing a bar to their right of appeal, shall, on proof thereof, be liable to dismission from office, and to such discretionary fine to Government as may be deemed proper by the court.—Reg. XXIII, sec. xli, cl. 2, and sec. lxxiii.

198. So much of all decrees as consists of the points to be decided, the decision thereon, and the reason for the decision, which shall be passed by principal sudder ameens, sudder ameens, or moonsiffs, shall be written originally in the vernacular language of such principal sudder ameen, sudder ameen, or moonsiff, and signed by such principal sudder ameen, sudder ameen, or moonsiff, at the time of pronouncing such decision; and (in case such vernacular language shall not be the same as the vernacular language commonly used in the court wherein the suit to which the decree relates shall have been instituted) shall be translated into such last-mentioned vernacular language, and the translation shall be incorporated in the decree.—Act XII, 1843, sec. iii.

199. The provisions of Act XXI, 1850, respecting the law to be administered with reference to the religion of the parties are to apply to moonsiffs.—Act XXVI, 1852, sec. iii.

200. Decrees passed in the courts of the sudder ameens and the moonsiffs shall be executed by those courts, under the general rules prescribed for the execution of decrees passed by the zillah judges; provided, however, that the rule in question, as regards all the officers above named, shall not be considered to warrant their issuing any order on their own authority for the confinement of a defendant in execution of civil process. Where such order may be requisite, the officer by whose authority the party may have been apprehended shall forward him, together with the subsistence-money lodged for his detention, to the zillah or city judge, who, unless he see reason to the contrary, shall direct his commitment to gaol by means of his own officers. In appeals from the orders of the moonsiff or sudder ameen in such cases, the decision of the zillah or city judge shall be final.—Reg. VII, 1832, sec. vii.

201. The moonsiffs shall retain on their establishments nazirs, to whom the provisions of clause 8, section xiv, Regulation XXVI, 1814, respecting the payment of tullubana, shall be applicable.—Act XIV, 1845, sec. ii.

202. It shall be competent to the sudder ameens and moonsiffs to demand security from the defendant, under the provisions of sections iv and v, Regulation II, 1806 (paragraphs 10 to 13), in cases pending before them; and also to proceed, without reference to the zillah judge, to the realization of fines imposed by them, provided that all orders passed by the sudder ameens and moonsiffs under this paragraph, be subject to an appeal to the zillah judge.—Act VI, 1843, sec. iv.

203. The rules applicable to pleaders in the courts of the zillah and city judges shall be applicable, so far as they are capable of application, to pleaders in the moonsiffs' courts.—Act I, 1846, sec. xi.

204. Whenever a pleader has conducted himself in such a manner in the court of a moonsiff as would have rendered him liable to a fine if he had so conducted himself in the court of a zillah

or city judge, it shall be competent to such moonsiff to impose such fine; provided that an appeal from all orders imposing such fines shall lie to the zillah or city judge, whose decision thereon shall be final.—Act I, 1846, sec. xii.

### SUDDER AMEENS.

205. (*Rules relating to the procedure on the trial of suits in the courts of the zillah judges and principal sudder ameens to apply also to sudder ameens.*)—Act XXVI, 1852, sec. ii. (See "MOONSIFFS," paragraph 183.)

206. Original suits referred to a sudder ameen or instituted in their courts shall be tried and determined in conformity with such of the provisions of Regulation XXIII, 1814, as are not superseded by later enactments and those of Act XXVI, 1852.—Act XXVI, 1852, sec. vii.

207. The sudder ameens are themselves to investigate the suits referred to them in a public cutcherry or court-room, and are not to allow their officers, servants, or dependants, or any other person to interfere therein.—Reg. XXIII, 1814, sec. lxxi.

208. All causes referred to the sudder ameens shall be pleaded either by the parties in person, or by an authorized vakeel of the Zillah or City Court.—Reg. XXIII, 1814, sec. lxxii.

209. (*Rules regarding the plaint and its registry*).—Reg. XXIII, 1814, secs. xviii. and lxxiii. (See "MOONSIFFS," paragraph 186).

210. (*Order in which suits are to be tried. Zillah judge may at any time direct sudder ameen to try suit.*)—Reg. XXIII, 1814, secs. xxvi. and lxxiii. (See "MOONSIFFS," paragraph 187.)

211. (*Not to confine or detain witnesses.*)—Reg. XXIII, 1814, secs. xxxiii. and lxxiii. (See "MOONSIFFS," paragraph 189.)

212. (*Rules regarding exhibits*).—Reg. XXIII, 1814, secs. xxxviii. and lxxiii. (See "MOONSIFFS," paragraphs 190 and 191.)

213. (*Tender of copies of decrees*).—Reg. XXIII, 1814, secs. xli. and lxxiii. (See "MOONSIFFS," paragraphs 196 and 197.)

214. (*Language of decrees.*)—Act XII, 1843, sec. iii. (See "MOONSIFFS," paragraph 198.)

215. (*Execution of decrees passed by sudder ameens.*)—Reg. VII, 1832, sec. vii. (See "MOONSIFFS," paragraph 200.)

216. The principal sudder-ameens and sudder ameens shall retain on their establishments officers denominated nazirs, to whom the provisions of clause 8, section xiv, Regulation XXVI, 1814, respecting the payment of tullubana shall be applicable.—Reg. VII, 1832, sec. v, cl. 5.

217. (*Security after decree*).—Act VI, 1843, sec. iv. (See "MOONSIFFS," paragraph 202.)

218. Whenever a pleader has rendered himself liable to a fine in the court of a principal sudder ameen or sudder ameen, it shall be competent to such principal sudder ameen or sudder ameen to impose such fine; provided that an appeal from all orders imposing such fines shall lie to the zillah or city judge, whose decision thereon shall be final.—Act I, 1846, sec. x.

### PRINCIPAL SUDDER AMEENS.

219. In the trial and decision of all original suits the principal sudder ameens shall be guided by the rules established for the conduct of business in the courts of the zillah and city judges.—Act VI, 1843, sec. i.

220. The principal sudder ameens are themselves to investigate the suits referred to them in a public cutcherry or court-room, and are not to allow their officers, servants, or dependants, or any other person, to interfere therein.—Reg. V, 1831, sec. xviii, cl. 2.

221. (*Language of decrees.*)—Act XII, 1843, sec iii. (See "MOONSIFFS," paragraph 198.)

222. Decrees passed in the courts of the principal sudder ameens shall be executed by those courts, under the general rules prescribed for the execution of decrees passed by the zillah and city judges; provided, however, that in such cases an appeal from the orders of the principal sudder ameens shall lie, in the first instance, to the zillah and city judges, and specially to the Sudder Dewanny Adawlut.—Reg. V, 1831, sec. xxii.

223. (*Principal sudder ameens to have nazirs.*)—Reg. VII, 1832, sec. v, cl. 5. (See "SUDDER AMEENS," paragraph 216.)

224. It shall be competent to the zillah and city judge to authorize any of the vakeels of his court, or of those attached to the sudder ameens, to practise in the court of the principal sudder ameens.—Reg. V, 1831, sec. xviii, cl. 3.

225. (*Principal sudder ameens may fine vakeels.*)—Act I, 1846, sec. x. (See "SUDDER AMEENS," paragraph 218.)

226. The principal sudder ameens shall furnish such monthly and other periodical reports of

business done in their courts as the Sudder Dewanny Adawlut may be pleased to direct.—Reg. V, 1831, sec. xxiii.

227. All official correspondence or communications addressed by principal sudder ameens to the courts of justice, or to other public authorities, shall be transmitted through the channel of the respective judges of the zillah and city courts, except in instances which may appear to require immediate dispatch. But in all cases in which such principal sudder ameens may find it necessary to transmit any official communication to a court or other public authority, in any other mode than through the zillah or city judge, they shall forward a copy of such communication with as little delay as possible, for the information of the zillah or city judge.—Reg. XXIV, 1814, sec. xii, cl. 11; Reg. VII, 1832, sec xvii.

228. In all matters of form or practice relative to the proceedings of a principal sudder ameen stationed at any place not being the fixed station of the zillah or city court, for which no express rule may be prescribed in this or any other Regulation, the principal sudder ameen shall be guided by the instructions of the Court of Sudder Dewanny Adawlut.—Reg. XXIV, 1814, sec. xii, cl. 12; Reg. VII, 1832, sec. xvii.

## GENERAL RULES.

### WHAT LAW TO ADMINISTER IN CASES OF SUCCESSION.

229. The Zillah and City Courts are not to pass a decree in any suit concerning the succession or right of inheritance to a zemindarry, talook, land, house, or other real property, to which there are more claimants than one, who by the Hindoo or Mahomedan law (respect being had to the religion of the claimants) would be entitled to a portion of the property; excepting the property be by the decree adjudged to all the claimants, in the proportions to which they may be respectively entitled.—Reg. III, 1793, sec. xiii.

230. In suits regarding succession, inheritance, marriage, and caste, and all religious usages and institutions, the Mahomedan laws with respect to Mahomedans, and the Hindoo laws with regard to Hindoos, are to be considered as the general rules by which the judges are to form their decisions. In the respective cases, the Mahomedan and Hindoo law officers of the court are to attend to expound the law.—Reg. IV, 1793, sec. xv.

231. By the preceding paragraph it was evidently intended that the law officers attached to the several civil courts should expound the law in the cases referred to in that paragraph, and that the judges should be guided by such exposition in all common cases wherein they might have no reason to doubt the accuracy of it: but in particular cases wherein they might entertain such doubt, either from the objections of the parties, founded on other law opinions exhibited by them, or from a reference to the known books of Mahomedan or Hindoo law, or from whatever cause, if the judge or judges trying the suit should consider the exposition given by their immediate law officer insufficient, it was not meant to preclude them from obtaining a further exposition from the law officers of the superior courts, by a reference of the case to them through the judges of these courts, as has been the occasional practice in some of the courts, and is now declared to be at the discretion of the courts, whenever they may deem such reference necessary for the purposes of justice. It is at the same time to be observed, that the courts are not authorized to refer any point of law to individuals not acting in a public capacity, and to whom, consequently, no responsibility attaches; although there is no objection to any of the courts receiving law opinions, quoting or referring to authorities tendered to them by the parties during the trial of the suit in support of their claims, and if the courts shall deem it proper so to do, referring them to their own law officers or those of the superior courts, to enable them to determine on their due weight and application to the case.—Reg. II, 1798, sec. iv.

232. The rule contained in paragraph 230 shall be the rule of guidance in all suits regarding succession, inheritance, marriage, and caste, and all religious usages and institutions that may arise between persons professing the Hindoo and Mahomedan persuasions respectively.—Reg. VII, 1832, sec. viii.

233. It is declared, however, that the above rules are intended and shall be held to apply to such persons only as shall be *bonâ fide* professors of those religions at the time of the application of the law to the case, and were designed for the protection of the rights of such persons, not for the deprivation of the rights of others. Whenever, therefore, in any civil suit, the parties to such suit may be of different persuasions, when one party shall be of the Hindoo, and the other of the Mahomedan persuasion, or where one or more of the parties to the suit shall not be either of the Mahomedan or Hindoo persuasions, the laws of those religions shall not be permitted to operate to deprive such party or parties of any property to which, but for the operation of such laws, they would have been entitled. In all such cases the decision shall be

governed by the principles of justice, equity, and good conscience; it being clearly understood, however, that this provision shall not be considered as justifying the introduction of the English, or any foreign law, or the application to such cases of any rules not sanctioned by those principles.—Reg. VII, 1832, sec. ix.

234. So much of any law or usage now in force within the territories subject to the Government of the East India Company, as inflicts on any person forfeiture of rights or property, or may be held in any way to impair or affect any right of inheritance by reason of his or her renouncing, or having been excluded from the communion of any religion, or being deprived of caste, shall cease to be enforced as law in the courts of the East India Company, and in the courts established by royal charter within the said territories.—Act XXI, 1850.

### ARBITRATION.

235. In suits that may be brought before any of the courts of civil judicature concerning disputed accounts, partnerships, debts, doubtful or contested bargains, or non-performance of contracts, in which the cause of action shall exceed two hundred rupees, the courts are to recommend the parties to submit the decision of the matters in dispute to arbitration.—Reg. XVI, 1793, sec. ii.

236. In all suits for money or personal property, the amount or value of which shall not exceed the sum of two hundred rupees, the courts are empowered, with the consent of the parties, to refer the suit to the decision of one arbitrator. The parties, or their vakeels, upon agreeing to the reference, shall, on or before the next court day, mutually choose some one common friend or indifferent person who may be willing to undertake the arbitration. If the parties shall not agree with respect to the person to be appointed arbitrator, or if the person nominated by them shall refuse to accept the arbitration, and the parties, or their vakeels, cannot agree in the appointment of another person willing to undertake the arbitration, the court, with the consent of the parties, is to appoint as arbitrator in the cause, the proprietor of the estate in which the cause of action shall have arisen, or the farmer, if the estate be held in farm of Government, or the cauzy of the pergunnah, or the tehseeldar, or any other creditable person, provided that the person so to be nominated by the court be not in any respect interested in the matter in dispute. But, if the parties cannot agree in the nomination of an arbitrator, or if the person whom they may nominate shall refuse to accept the trust, and the parties cannot agree upon the appointment of any other person willing to undertake the arbitration, or shall not consent to the appointment of an arbitrator by the court, the cause is not to be referred to arbitration, but is to be tried by the court. In the event of the parties, or their vakeels, agreeing in the nomination of an arbitrator willing to accept the arbitration, or to an arbitrator being appointed by the court, the person so chosen or appointed shall be the arbitrator in the cause. The parties, however, in suits of the nature of those described in this paragraph are to have the option of choosing two or more arbitrators to decide their cause, in the same manner as the parties in the causes specified in the preceding paragraph.—Reg. XVI, 1793, sec. iii.

237. The judges of the courts are enjoined to afford every encouragement in their power to persons of character and credit to become arbitrators; but they are not to employ any coercive means for that purpose, nor to permit any of their public officers or private servants, to be arbitrators in a cause. In all cases, the courts are directed to endeavour, but without using any compulsion, to prevail upon parties to submit their cause to the arbitration of one person to be mutually agreed upon by them. In every case (with the exception of the cases specified in the preceding paragraph, which the courts are empowered to refer to one arbitrator with the consent of the parties), the parties are to choose the arbitrators, who are to decide the matter in dispute without fee or reward.—Reg. XVI, 1793, sec. iv.

238. Whenever a suit shall be submitted to arbitration, the court in which it may have been instituted, previous to the arbitrator or arbitrators entering upon the arbitration, is to cause the parties to execute arbitration-bonds, binding themselves to abide by the award and agreeing that it be made a decree of the court. The court is to fix such time as it may think reasonable, upon a consideration of the nature and circumstances of the case, for the delivery of the award, and the period so fixed is to be specified in the bonds. If the cause shall be referred to two or more arbitrators, the following provisions are to be made for completing the award, in the event of the arbitrators not delivering it by the limited time, either from disagreement, or other cause. If the decision of the suit shall be referred to two or more arbitrators, whether an odd or an even number the parties are to have the option of nominating jointly one person as umpire: or if the number of arbitrators appointed shall be three or more, being an odd number, to agree that the award given by the majority shall be final, or to permit the arbitrators to nominate an umpire. The name of the umpire, and the time by which he is to make his award, in the event of the arbitrators

not delivering it by the limited period, are to be specified in the bonds, which are to be executed before the arbitrators enter upon the inquiry. In the event of an umpire being appointed, and the arbitrators not agreeing in an award by the limited period, their authority is to cease from such period, and the umpire is to give his award.—Reg. XVI, 1793, sec. v.

239. When a cause shall be referred to arbitration and the bonds specified in the preceding paragraph shall have been executed, the court is to transmit to the arbitrator or arbitrators a copy of the bill of complaint, and by a short writing under the seal of the court, refer to him or them the matters in dispute between the parties. In the trial of the suit, the arbitrators are to investigate the matters in dispute, by hearing the pleadings of the parties and examining their respective witnesses and documents. The court is to issue the same process to the parties and to the witnesses whom the arbitrator or arbitrators, or the parties, may desire to have examined, to appear before the arbitrator or arbitrators, and to administer such oaths or affirmations to the parties and witnesses as the court is authorised to administer in causes tried before it: and persons not attending in consequence of such process, or making any default, or refusing to give their testimony, or to sign their depositions, or being guilty of any contempt to the arbitrator or arbitrators during the investigation of the suit, are to be subject to the like disadvantages, penalties, and punishments, by order made by the arbitrator, or arbitrators, as they would incur for the same offences in suits tried before the court; provided that the arbitrator or arbitrators shall report the order, with the reason for making it, to the court, and obtain its consent thereto, which is to be signified by the judge or judges signing the order. In cases in which an arbitration may be held at a considerable distance from the court, the court may grant commissions to the arbitrators to administer the proper oaths or affirmations to witnesses whom they may be desirous of so examining.—Reg. XVI, 1793, sec. vi.

240. In cases where arbitrators or umpires shall not have been able to complete the award by the limited time, from want of the necessary evidence or information, or other good and sufficient cause, the courts are empowered to allow a further time for the delivery of the award. In the first-mentioned case, the courts are to fix a period by which the umpire (if an umpire shall have been appointed) shall deliver his final award, in the event of the arbitrators not completing their award by the expiration of such further time.—Reg. XVI, 1793, sec. vii.

241. When a final award in a cause shall be made, either by the arbitrators or the umpire, it is to be submitted to the court under the seal and signature of the person or persons by whom it may be made, together with all the proceedings, depositions, and exhibits in the cause. The court is to pass a decree conformably to the award, and the decree is to be carried into execution in the same manner as other decrees of the court.—Reg. XVI, 1793, sec. viii.

242. The award of an arbitrator or arbitrators is not to be set aside, except it be fully proved to the satisfaction of the court, by the oaths or affirmations of two credible witnesses, that the arbitrator or arbitrators has or have been guilty of gross corruption or partiality in the cause in which the award may be made.—Reg. XVI, 1793, sec. ix.

243. Parties in suits depending in the Civil Courts of Judicature respecting the property in land, or limited tenures therein, or rights dependent thereon, shall be at liberty to refer their suits to arbitration, and shall, by all due means, be encouraged by the courts to resort to that mode of adjusting their differences.—Reg. VI, 1813, sec. ii, cl. 1.

244. The preceding rules respecting the reference of suits to arbitration, the appointment of arbitrators and umpires, the investigation of suits referred to arbitration, the time and mode of making the award, and the setting aside or confirming the same, are declared applicable to suits referred to arbitration by the Courts of Judicature under this Regulation.—Reg. VI, 1813, sec. ii. cl. 2.

245. Persons between whom disputes may exist respecting the property of land, or limited tenures therein, or rights dependent thereon, whether the same be or be not depending in the Courts of Judicature, are at liberty, without any application to the courts, to refer the same to private arbitration; and the awards made by the arbitrators and umpires appointed in such case by the parties shall be supported and enforced by the courts, under the following rules and limitations. —Reg. VI, 1813, sec. iii. cl. 1.

246. Whenever a dispute respecting the matters above enumerated shall have been referred to private arbitration, and an award shall have been duly made, if either party shall refuse to perform the award, it shall be competent to the other party, within the period of six months from the date of the award, to apply summarily to the Dewanny Adawlut; and upon such application, if the court, after calling upon the opposite party for his answer, be satisfied that the award was duly made by arbitrators or umpires appointed by the free-will and consent of the parties, and such award shall be liable to no impeachment, which would have warranted the setting it aside if it had been made under the authority of the court, shall cause the same to be summarily executed as a decree of court, calling upon the arbitrators and umpires, if necessary, to attend and give their

assistance in the execution of their said award; provided always, that if such application for the enforcement of a private award shall not be made within the period above prescribed, the court shall not admit any plea whatever for the delay, but shall reject such application and refer the party preferring it to a regular suit.—Reg. VI, 1813, sec. iii, cl. 2.

247. Whenever private awards shall be tendered by the parties in regular suits, the courts, if such awards shall appear to have been performed, and the possession of the contested property to have been held under them, shall allow equal validity to the same as if they had been made under the authority of the courts. But if the awards tendered shall not have been performed at all, or shall have been performed only in part, the courts shall not admit the same, unless they be established by clear and satisfactory proof, shall be distinct and intelligible so as to admit of easy execution, and the delay which may have occurred in the performance of them shall also be duly accounted for.—Reg. VI, 1813, sec. iii, cl. 3.

248. No decree relating to the matters above enumerated shall be amended or reversed upon the ground of the same being founded on an award of arbitration not authorised by the Regulations at the time the award was made, unless such award be in itself open to just cause of impeachment. —Reg. VI, 1813, sec. iv.

249. If a petition of appeal shall be preferred against the decision of any court, founded on an award of arbitration, it is to be dismissed with costs; unless it be fully proved to the satisfaction of the court, by the oaths or affirmations of two credible witnesses, that the arbitrators have been guilty of gross corruption or partiality, in the cause in which they have made the award.—Reg. V, 1793, sec. xxviii; Reg. VI, 1793, sec. xxii.

NOTE.—Collectors revising settlements are authorized to refer to arbitration any disputes cognizable by them under the provisions of Regulation VII, 1822; and any judicial questions before them, in which the interests of justice may in their opinion require that the case be decided by arbitration, are also referrible under Reg. IX, 1833.

### EMPLOYMENT OF NATIVES AS PUNCHAYET-ASSESSORS, OR JURY.

250. The Governor-General in Council is declared competent to grant the powers specified in the following paragraphs to any European officer presiding in a court for the administration of civil justice, such powers to be exercised either in any particular suit in any specified district, or generally by such officer, in any suits that may come before him, and in any part of the country where he may be employed; provided that it shall always be competent to the Governor-General in Council to revoke and annul the grant of such powers whenever he may see sufficient cause for so doing.—Reg. VI, 1832, sec. ii.

251. In the trial of civil suits, original or appealed, it shall be competent to every court in which an European officer thus empowered presides, to avail itself of the assistance of respectable natives in either of the three following ways.—Reg. VI, 1832, sec. iii, cl. 1.

252. First, by referring the suit, or any point or points in the same, to a punchayet of such persons, who will carry on their inquiries apart from the court, and report to it the result. The reference to the punchayet and its answer shall be in writing, and shall be filed in the suit.—Reg. VI, 1832, sec. iii, cl. 2.

253. Or, secondly, by constituting two or more such persons assessors or members of the court, with a view to the advantages derivable from their observations, particularly in the examination of witnesses. The opinion of each assessor shall be given separately and discussed; and if any of the assessors, or the authority presiding in the court, shall desire it, the opinions of the assessors shall be recorded in writing in the suit.—Reg. VI, 1832, sec. iii, cl. 3.

254. Or, thirdly, by employing them more nearly as a jury. They will then attend during the trial of the suit, will suggest, as it proceeds, such points of inquiry as occur to them; the court, if no objection exists, using every endeavour to procure the required information, and after consultation will deliver in their verdict. The mode of selecting the jurors, the number to be employed, and the manner in which their verdict shall be delivered, are left to the discretion of the judge who presides.—Reg. VI, 1832, sec. iii. cl. 4.

255. It is clearly to be understood that, under all the modes of procedure described in the three preceding paragraphs, the decision is vested exclusively in the authority presiding in the court. —Reg. VI, 1832, sec. iii. cl. 5.

AFFIRMATIONS SUBSTITUTED FOR JUDICIAL OATHS OF HINDOOS AND MAHOMEDANS.

256. Except as hereinafter provided, instead of any oath or declaration now authorized or required by law, every individual of the Hindoo or Mahomedan persuasion within the territories of the East-India Company shall make affirmation to the following effect :—

"I solemnly affirm, in the presence of Almighty God, that what I shall state shall be the truth, the whole truth, and nothing but the truth."—Act V, 1840, sec. i.

257. If any person making such affirmation as aforesaid shall wilfully and falsely state any matter or thing, which, if the same had been sworn before the passing of this Act, would have amounted to perjury, every such offender shall be subject in all courts to the same punishment to which persons convicted of perjury were subject before the passing of this Act.—Act V. 1840, sec. ii.

258. Any person causing or procuring another to commit the offence defined in the preceding paragraph, shall be subject in all courts to the same punishment to which persons convicted of subornation of perjury were subject before the passing of this Act.—Act V. 1840, sec. iii.

259. This Act shall not extend to any declaration made under the authority of Act No. XXI, of 1837, nor to any declaration or affirmation made in any of Her Majesty's Courts of Justice; provided always, that the words, "Her Majesty's Courts of Justice," shall be deemed not to mean, nor extend to, the Courts of the Justice of the Peace.—Act V, 1840, sec. iv, and Act II, 1847.

## PROCEDURE IN CERTAIN SPECIAL SUITS COGNIZABLE BY THE CIVIL COURTS.

SUITS AGAINST THE GOVERNMENT AND ITS OFFICERS.

260. Collectors of the revenue and their assistants and native officers, salt agents and their assistants and native officers concerned in the manufacture of salt, the collectors of the customs and their assistants and native officers employed in the collection of the customs, the mint and assay masters and their assistants and native officers, are declared amenable to the Zillah or City court in the jurisdiction of which they may reside or carry on the public business committed to their charge, for any acts done in their official capacity, in opposition to any Regulation.—Reg. III, 1793, sec. x.

261. If a native, or any other person not being a British subject, shall consider himself aggrieved under any Regulation, by an act done by any of the officers of Government described in the preceding paragraph, pursuant to a special order originating with the Board of Revenue or other superintending Board, the officer by whom the act may be done is not to be liable to be sued for it. In such cases, Government is to be considered as the defendant; and the person deeming himself aggrieved is to present a petition to the court to which the officer by whom the act complained of may have been done shall be amenable in his public capacity, stating wherein he considers himself injured under the Regulations, and praying that the Governor-General in Council will order the court in which the cause may be cognizable, to try the points or matters contested agreeably to the Regulations. The judge to whom the petition may be presented is to forward it immediately to the Board to which the person complained against may be amenable, who, provided they shall not think it proper to afford the redress that may be solicited by the petitioner, and the courts of justice shall be competent to try the cause, will direct the court in which it may be cognizable, to proceed to the trial of it. If the said Board shall order the cause to be tried, the court is immediately to send a written notification of the order to the complainant, and the cause is to be considered as filed in the court from the date of the notification. The court is then to proceed to try the suit, under the same rules and regulations as are prescribed for the trial of suits between individuals. The officer by whom the act complained against may have been done, is to carry on the suit under the directions of the Board of Revenue, or other superintending Board, according to the immediate authority under which he may have acted, and is to issue the necessary instructions to the vakeel of Government in the court in which the suit may be instituted, or subsequently carried in appeal. In the event of Government being cast in any of the courts, the officer entrusted with the management of the suit is to send a copy of the decree and proceedings of the court to the Board of Revenue, or other superintending Board, according to the immediate authority under which he may have acted, with a letter stating any objections that he may have to offer to the decision. The Boards above mentioned will order an appeal from the decisions that may be transmitted to them, under this paragraph to be preferred or not, as may appear to them advisable. The costs and damages that may be awarded against Government, in suits instituted under this paragraph, are to be defrayed from the public treasury. All special rules respecting cases of the nature of those described in this paragraph are to be duly attended to by the plaintiff, and the boards and officers concerned in them.—Reg. III, 1793, sec. xi, and Reg. II, 1814, sec. iii, cl. 1.

262. Whenever a petition of complaint may be preferred against a collector of the land revenue or customs, salt agent, or opium agent, or other person amenable for acts connected with his official duties, to any Court of Civil Judicature competent to receive and try such cases, the judge or judges of such court shall transmit the petition so received to the Board of Revenue, or other superintending Board to which the person complained against may be subject.—Reg. II, 1814, sec. iii, cl. 1.

263. The Board of Revenue, or other superintending Board, on receipt of any petition of the nature described in the preceding paragraph, shall immediately take the circumstances stated therein into their consideration, in order to judge whether the redress solicited should be granted directly by Government, or whether the complainant should be left to prosecute his suit in the regular course of law.—Reg. II, 1814, sec. iii, cl. 2.

264. Should the superintending Board be of opinion, after making due inquiries on the subject, either by consulting their own records, or by a reference to the local authorities, or in any other mode which may be judged advisable, that the party complaining has been actually aggrieved, and that he is entitled to redress directly from Government, they shall submit the necessary report on the subject, accompanied with their opinion as to the nature and extent of the relief which should be granted.—Reg. II, 1814, sec. iii, cl. 3.

265. Should the superintending Board be of opinion, after making due inquiries on the subject, that the party complaining should be left to prosecute the case in the regular course of law, they shall inform the judge or judges of the court from whom the petition may have been received of the result of their deliberations on that point; and such communications shall be deemed sufficient authority for the formal institution and trial of the suit in question. The Boards aforesaid shall at the same time determine whether the suit should be defended by the public officers as an action against Government, or by the person affected by the complaint in his individual capacity, and shall inform the judge or judges by whom the case may have been referred to them of their decision on this point accordingly.—Reg. II, 1814, sec. iii, cl. 4. (See "SETTLEMENT," paragraph 407, to 414. "REALIZATION OF REVENUE." "REALIZATION OF RENT." "LA KHIRAJ." "INDIGO," paragraphs 19 to 24. "OPIUM," paragraphs 16 to 23, and "SALT," paragraphs 14 to 20, 22 to 25, 29 to 33, 36, 37.

266. In cases in which a party preferring a petition of complaint against a collector of the land revenue, or of customs, or other person amenable to the Courts of Civil Judicature, for acts connected with his official duties, may not be considered entitled to redress from Government, under the provisions of paragraph 264, and who may consequently, under the preceding paragraph, proceed to prosecute the case in the regular course of law, such suit shall be entered on the file of the court, from the date on which the petition was originally received, and the case shall be brought to a hearing and determination in the order in which it would have been heard and determined had it been originally instituted on such date.—Reg. XIII, 1829, sec. v.

267. Government is not and shall not be held liable for any error or irregularity which may have occurred, or shall occur, in any order, proceeding, or decree of any Court of Judicature, whether a revenue or other officer of Government may or may not have been, or shall or shall not be, employed in giving effect to the order, proceeding, or decree deemed to be erroneous or irregular. Nor shall any officer of Government be held liable for anything done or suffered in conformity with an order, proceeding, or decree of a court as aforesaid; and if any person or persons shall sue Government, or any officer of Government, for anything done or suffered under an order, proceeding, or decree of court as aforesaid, such person or persons shall be nonsuited, with costs.—Reg. XI, 1822, sec. xxxviii.

268. The principle contained in the preceding paragraph is and shall be held applicable to all orders, proceedings, or decrees made, held, or passed by any public officer, in virtue of powers vested in him for the judicial cognizance of any pleas, suits, complaints, or informations whatsoever, unless otherwise specially provided. No judge, magistrate, justice of the peace, collector or other person acting judicially shall be liable to be sued in any civil court, for any act done or ordered to be done by him in the discharge of his judicial duty, whether or not within the limits of his jurisdiction; provided that he at the time, in good faith, believed himself to have jurisdiction to do or order the act complained of; and no officer of any court or other person, bound to execute the lawful warrants or orders of any such judge, magistrate, justice of the peace, collector, or other person acting judicially, shall be liable to be sued in any civil court, for the execution of any warrant or order which he would be bound to execute if within the jurisdiction of the person issuing the same.—Reg. XI, 1822, sec. xxxviii, and Act XVIII, 1850.

269. All complaints against the collector of customs at Calcutta, or his public officers, or any other public officer at the presidency, which, by the Regulations in force, are cognizable in any civil court shall be received, tried, and determined, as prescribed in the Regulations, by the judge of the Dewanny Adawlut of the twenty-four pergunnahs.—Reg. VII, 1806, sec. viii.

SUITS—BY OR AGAINST NATIVE PRINCES THROUGH THE BRITISH GOVERNMENT.

270. In cases in which sovereign native princes, whether residing within the British territories or otherwise, shall have claims to prefer, as individuals, to lands or other things, the cognizance of which is vested by the general constitution of the country in the courts of civil judicature, it shall be competent to the Governor-General in Council to order a suit to be instituted, through the medium of the public officers, for the recovery of the lands or other things which may be so claimed, in the court which, on the principles of the general regulations, is authorized to inquire into and decide upon the right to the disputed property.—Reg. IV, 1812, sec. ii, cl. 1.

271. In like manner, should a suit be instituted in any of the established courts of civil judicature, by any zemindar or other person, for the recovery of lands or other things in the occupancy of any native prince whom it would be improper to require to defend the action himself, it shall be competent to the Governor-General in Council to order such suit to be defended by the public officers.—Reg. IV, 1812, sec. ii, cl. 2.

272. Suits which may be instituted or defended under the preceding rules shall be conducted by the collectors of the land revenue, aided by the vakeels of Government at the several civil courts, under the directions of the Boards of Revenue; which boards will, of course, on all such occasions be furnished by the Governor-General in Council with such information and instructions as may appear necessary to enable them duly to superintend the conduct of the prosecution or of the defence.—Reg. IV, 1812, sec. iii.

273. In all original suits and appeals in which Government may be a party under the provisions of the present Regulation, the court which may pass judgment shall, in addition to the copies of the decrees required to be delivered to the parties, transmit a summary of the decree with as little delay as possible, in the English language, to the secretary to Government in the judicial department, for the information of the Governor-General in Council, who, on receipt of such summary, will issue any orders to the Boards of Revenue which the case may appear to require, or will cause the necessary notification to be made to the person on whose behalf the cause shall have been prosecuted or defended, of the final judgment given on the action.—Reg. IV, 1812, sec. iv.

SUITS—IN WHICH THE NAWAB NAZIM OF BENGAL AND HIS FAMILY ARE PARTIES.

274. In complaints brought before any civil court, in which it shall appear, either by the application of the Nazim or the representation of the defendant, at or before the time of giving in his or her answer, or by the petition of the complainant, that both parties are servants or relations of his Excellency, or the widows or female descendants of the former Nazims of Bengal, the parties are to be referred for justice to the Nazim, or to any person whom he may appoint to dispense it. Upon a complaint being preferred against any servant or servants of his Excellency by persons of a different description, the court in which the complaint may be instituted is either to refer it to his Excellency, or to hear it in the ordinary manner, according to its discretion, taking care at all times, and in all matters, to pay every proper attention to the dignity and long-established rights of the Nabob. Provided, however, that in all cases in which either the plaintiff or defendant shall prefer the jurisdiction of the Court to that of the Nazim, the judge is to try and determine the suit in the same manner as if neither of the parties had been persons of the description specified in this paragraph.—Reg. XVI, 1793, sec. x.

275. All references which the officers in the judicial department may have occasion to make to the Nawab of Bengal under the provisions contained in the preceding paragraph; and generally, all other applications which those officers may deem it necessary to make to the Nawab, shall be transmitted to his Highness through the channel of the officer holding the appointment of superintendent of Nizamut affairs.—Reg. XIX, 1805, sec. ii.

276. All applications which the collectors of the land revenue in the different zillahs or the collectors of Government customs, or any other public officer, may find it necessary to make to the Nawab, on matters connected with their respective public duties, shall in like manner be transmitted to his Highness through the channel of the superintendent of Nizamut affairs.—Reg. XIX, 1805, sec. iii.

277. Applications or references of the nature above described may be transmitted by the public officers of Government in the form of a letter in the Persian language addressed to his Highness the Nawab, under the signature of the person by whom such application may be made, and forwarded under an unsealed envelope to the superintendent of Nizamut affairs; or the substance of the reference or application may be stated in an English letter addressed to the superintendent of Nizamut affairs, who will without loss of time, make the necessary communication to the Nawab,

and forward his answer to the officer of Government from whom the application may have been received.—Reg. XIX, 1805, sec. iv.

278. Whenever an application may be made in writing addressed to his Highness the Nawab, one established address, suitable to the high rank of the Nawab, and to the official situation of the person by whom the application may be made, shall be observed, agreeably to the form contained in the Persian transcript of this Regulation.—Reg. XIX, 1805, sec. v.

279. All applications to her Highness the Munnee Begum, to the Bubboo Begum, or to the Waledeh Begum, or to the brothers of his Highness the Nawab, sons of the late Nawab Mobarek-ul-Dowlah, or to his brothers by marriage with the daughters of his father, shall be addressed according to the form above-prescribed to his Highness the Nawab, and forwarded through the superintendent of Nizamut affairs.—Reg. XIX, 1805, sec. vi.

280. Should it, on any occasion, appear to the superintendent of Nizamut affairs that the reference or application which he may be desired to make to the Nawab is liable to objections, either from its tenor or from defect of form, the superintendent may, in such case, delay the communication of it to the Nawab and report the circumstances to the Governor-General in Council, who will pass such orders on the subject as the case may appear to require.—Reg. XIX, 1805, sec. vii.

281. The forms prescribed in the Persian transcript of this Regulation shall be observed, whenever any of the public officers of Government may have occasion to address letters to the Munnee Begum and Bubboo Begum.—Reg. XVI, 1806, sec. ii.

282. Whenever any of the public officers may have occasion to address any of the other branches of the Nawab's family, they are required to apply to the superintendent of the Nizamut affairs for the proper form of address.—Reg. XVI, 1806, sec. iii.

283. It is already prescribed that all applications which may be made to his Highness the Nawab shall be transmitted through the channel of the superintendent of Nizamut affairs. In like manner, all applications which may be made to the other members of the Nawab's family shall be forwarded through the channel of that officer.—Reg. XVI, 1806, sec. iv.

284. In order to obviate any doubt or misconstruction respecting the intent of the rule contained in paragraph 277, it is hereby explained, that all letters addressed to the Nawab himself, or to any other branch of his Highness's family, shall be sent through the channel already prescribed, under an open envelope, bearing the private seal of the writer or his name written in the Persian character.—Reg. XVI, 1806, sec. v.

285. It shall be competent to the agent to the Govenor-General at Moorshedabad, or other officer, however denominated, exercising for the time being the control and superintendence of the affairs of the Nizamut on the part of the Governor-General in Council, to institute suits in the Courts of Civil Judicature on the part of his Highness the Nazim of Bengal, and to conduct them, as plaintiff or appellant, in such manner as may appear proper.—Reg. XIX, 1825, sec. ii.

286. In like manner, should any suit be instituted in any Court of Civil Judicature against his Highness the Nazim of Bengal, the ordinary notice shall be issued upon the agent to the Governor-General, or other officer aforesaid, who shall conduct the defence on the part of his Highness.—Reg. XIX, 1825, sec. iii.

287. Provided always, that security shall not be required from, nor shall attachment in any case issue against his Highness, or against the agent to the Governor-General, or other officer aforesaid; but should the court require the payment of any costs, damages, or other sums of money, or the delivery of any lands, and after order duly made and served on the agent, any unreasonable delay should arise, it shall be competent to the court to transmit a copy and translation of the decree or order to the secretary to Government in the Persian department, when the Governor-General in Council will issue such orders as may be necessary for the discharge of the amount due.—Reg. XIX, 1825, sec. iv.

### SUITS—BY INHABITANTS OF FOREIGN TERRITORIES.

288. Every person being an inhabitant of a foreign territory, who may desire to institute or defend an original suit, or to prosecute or defend an appeal in any civil court, shall be required to furnish security for all eventual costs of suit, which may be adjudged payable by such person, and shall furnish such security by a surety or sureties residing and possessing property within the limits of the Company's territory, and within the jurisdiction of the Company's court. Such security shall be furnished by a plaintiff or appellant within six weeks of the date on which his plaint or appeal is filed, and a defendant or respondent shall furnish it within six weeks of the date on which the usual summons is served on him; unless such security be so furnished, the suit of such person, if plaintiff, shall not be proceeded in, if defendant or respondent, he shall not be allowed to defend his suit or appeal, but the cause shall be decided *ex parte* on the statements and proofs of his

opponent. And no appeal shall be admitted from the party who may have failed to give the required security, until he shall first have made good the whole of the costs demandable from him in the lower court, and given the necessary security to cover the costs in appeal.—Reg. XIV, 1829, sec. ii, cl. 1.

289. The same rule shall be applicable, and the same mode of proceeding shall be observed, in the event of any person who may have instituted or defended any original suit, or prosecuted or defended an appeal in a civil court, becoming an inhabitant of a foreign territory, before a decree is passed on such suit or appeal, and failing to give the required security within six weeks of its being demanded by the court, and such demand the court is required to make immediately on the circumstance becoming known, even though no motion should be made to that effect.—Reg. XIV, 1829, sec. ii, cl. 2.

290. It is however provided, that nothing contained in the above provisions shall be considered applicable to pauper suitors. —Reg. XIV, 1829, sec. ii, cl. 3.

NOTE.—By Act III, 1845, it is provided that the taking security for costs in appeal shall be left to the discretion of courts; but that provision will probably not be considered applicable to the parties here referred to.

### CASES IN FORMA PAUPERIS—SUITS.

291. No person shall be hereafter entitled to institute or defend any suit in *formâ pauperis* in any Civil Court of Judicature, unless the amount or value of the thing claimed shall exceed the sum of sixty-four rupees.—Reg. XXVIII, 1814, sec. iii.

292. No person shall be hereafter permitted to institute a suit as a pauper in any Civil Court of Judicature, if the claim shall be for damages on account of loss of caste, slander, abusive language, assaults, or personal injuries of any description; or if the claim shall be for the possession or recovery of deeds or papers, or for fines, forfeitures, or pecuniary penalties on account of any breach of the Regulations. Nor shall any person be entitled to institute any suit in *formâ pauperis*, in any Civil Court of Judicature, unless the court in which his petition may be presented shall, before granting such petition, be satisfied by the examination of the petitioner, or of his or her agents or witnesses (which examination shall be taken on oath, or solemn affirmation), that there is probable cause for instituting the suit.—Reg. XXVIII, 1814, sec. iv, and Act IX, 1839, sec. i.

293. Whenever a party may be desirous of instituting an original suit as a pauper in any civil court, he shall appear in person before such court, and shall present a petition. Provided, however, that if the party be a female of a rank and description which, according to the prejudices of the country, would render it improper to require her personal attendance in a court of justice, such petition may be presented by a mokhtar or agent duly authorised for that purpose.—Reg. XXVIII, 1814, sec. v. cl. 1.

294. The petition shall contain a general statement of the nature and grounds of the demand, of the value of the thing claimed, according to the provisions of Schedule B, Regulation X, 1829, of the name of the person or persons intended to be sued, and a schedule of the whole real or personal property belonging to the petitioner, with the estimated value of such property. —Reg. XXVIII, 1814, sec. v, cl. 2.

295. In all suits instituted in *formâ pauperis* the pleadings on the part of the defendant, as well as all papers filed on his part on which a stamp is required by Schedule (B.) of Regulation X, of 1829, may be written on unstamped paper, and copies of orders or proceedings which the defendant may be required to take shall be furnished to him on unstamped paper; provided always that on the conclusion of the suit, the court shall calculate the whole of the costs which would have been incurred by the defendant on account of stamp duties if the suit had not been instituted in *formâ pauperis*, and shall charge the same to the party cast, or to the parties respectively in such proportions as may be deemed reasonable.—Act IX, 1839, sec. ii.

296. The court in which the petition may be presented, or an authorised officer of the court, shall then proceed to take the examination of the petitioner, or if the petitioner be a female of the description mentioned in paragraph 293, the examination of her agent, with regard to the points above noticed, and shall question him particularly with respect to any real or personal property which the petitioner may have recently sold, mortgaged, transferred, or otherwise disposed of. Such examination shall be taken on oath, or on a solemn declaration in lieu thereof, under the provisions in force, in that behalf.—Reg. XXVIII, 1814, sec. v. cl. 3.

297. In taking the examination of the petitioner or agent in such cases, it shall be the duty of the court to admonish him that any wilful misrepresentation or falsehood, or the fraudulent concealment of any material fact regarding the property in the petitioner's possession, or the recent transfer of such property, will subject him to be tried for perjury, and, on conviction, to the punishment which is now or may be hereafter prescribed for that crime by the Regulations. The

petitioner or agent shall subscribe his examination, which shall then be authenticated by the court in the usual manner.- Reg. XXVIII, 1814, sec. v, cl. 4.

298. If upon such examination it should appear to the court that the petitioner is possessed of property sufficient to defray the expenses of the suit, or that he has recently sold, mortgaged, or otherwise transferred any property with the view of being admitted to sue as a pauper, the court will at once refuse to admit his suit in that form, and will refer him to the general rules in force.—Reg. XXVIII, 1814, sec. v, cl. 5.

299. If there shall appear any grounds for suspecting that the petitioner is possessed of property, or has recently transferred any property beyond that which he may have acknowledged or stated in his petition and examination, the court may issue a notice to the adverse party, signifying that if such party shall appear within a reasonable period to be fixed by the court, he shall be permitted to show cause why the plaintiff should not be allowed to sue as a pauper. The court may also summon witnesses, or institute a local inquiry in the neighbourhood of the petitioner's residence, with the view of ascertaining whether the petitioner has recently transferred, or is possessed of any property beyond that stated in his examination.—Reg. XXVIII, 1814, sec. v, cl. 6.

300. If from the result of such inquiry, or at any subsequent period, it should be satisfactorily established that the petitioner or the agent of a female petitioner has been guilty of wilful perjury in his examination, the court will not only refuse the prayer of the petitioner (or nonsuit the plaintiff if the cause be depending), but will cause the person appearing to have been guilty of perjury to be committed to the Sessions Court to take his trial for such offence.—Reg. XXVIII, 1814, sec. v, cl. 7.

301. If none of the objections stated in paragraphs 298 and 300 should exist, and the petitioner should not appear to be possessed of sufficient property to enable him to defray the probable expenses of the suit, the court is empowered to admit him to sue as a pauper, on his finding two good and sufficient sureties, both of whom shall be householders, for his appearance whenever his attendance may be required by the court.—Reg. XXVIII, 1814, sec. vi, cl. 1.

302. When the required sureties shall have been furnished, if the pauper shall be unable to prevail on any of the vakeels of the court to undertake his suit, and he shall be unable to plead the cause in person, the court may require any of the authorized pleaders of the court to undertake and plead the suit.—Reg. XXVIII, 1814, sec. vii, cl. 1.

303. The courts are to state on the record of the trial their reasons for every exercise of the power vested in them by this section; and the order of the court, in such cases, shall be a sufficient warrant to the vakeel to plead in the suit without filing the usual vakalutnamah.—Reg. XXVIII, 1814, sec. vii, cl. 2.

304. The stamp duty which has been substituted for the institution fee by Regulation X, 1829, shall not be required from plaintiffs who may be admitted to sue as paupers under this Regulation. The notice to the defendant, the summons for witnesses, and other processes on the part of the plaintiff, shall be served through the chuprassies on the establishment of the courts without any expense to the plaintiff; and the copy of the decree, as well as copies of orders or proceedings which he may be required to take, shall be furnished to a pauper plaintiff on unstamped paper.—Reg. XXVIII, 1814, sec. viii.

305. If the pauper plaintiff shall gain his suit, the court will cause the defendant to make good the amount of the fees due to the pleader who may have been employed on account of the plaintiff, or such part of them as the court may decree.—Reg. XXVIII, 1814, sec. x, cl. 1.

306. If the plaintiff shall not establish his claim, and the court shall deem the suit to be unfounded, vexatious, or wilfully exaggerated, and the plaintiff shall not pay the amount of his own fees and the fees and costs which may be awarded against him in favour of the opposite party, the court is authorized to commit him to close custody in the civil gaol, without labour, for a period not exceeding six months.—Reg. XXVIII, 1814, sec. xi, cl. 1.

307. Such order of confinement shall be carried into immediate execution, and shall not be suspended in consequence of the plaintiff's being desirous of appealing from the judgment. Provided, however, that the plaintiff shall at any time be entitled to his discharge from such confinement, on his paying into court the full amount of the costs and expenses awarded against him in the decree.—Reg. XXVIII, 1814, sec. xi, cl. 2.

308. If the pauper plaintiff shall abscond, and his sureties shall not produce him before the court, and the order for his imprisonment cannot therefore be carried into effect, the said sureties shall be called upon to make good the full amount of the costs adjudged against the plaintiff. In the event of their refusing or failing to make good the costs, the court is authorized to commit them to close custody, without labour, in the civil gaol, for a period not exceeding six months, subject to the provision contained in the preceding paragraph.—Reg. XXVIII, 1814, sec. xi, cl. 3.

309. The confinement of a pauper plaintiff, or of his sureties, under this section, shall not preclude the court from realizing the costs and expenses adjudged against a pauper plaintiff; but in all cases in which such plaintiff may fail to make good the costs and expenses to which he may be

declared liable in the decree, whether those costs may be due to the defendant or to Government, the court shall endeavour to realize the amount by the sale of any property which may belong to the plaintiff, either at the time of the decree or subsequently thereto.—Reg. XXVIII, 1814, sec. xi, cl. 4.

310. When a plaintiff may have been admitted by any civil court to institute his suit in *formâ pauperis*, under the rules for paupers contained in Regulation XXVIII, 1814, and the suit may, in other respects, be referrible to a sudder ameen, it shall be competent to the judge to refer the same for trial and decision by one of the sudder ameens attached to the Zillah or City Court, or stationed in any other part of his jurisdiction; and the suit so referred shall be proceeded upon by the sudder ameen as in other suits referred to him, subject to the provisions contained in Regulation XXVIII, 1814.—Reg. XIII, 1824, sec. iv, cl. 2.

311. The provisions in the Regulation above mentioned respecting pauper defendants in original suits, as well as those respecting pauper appellants and respondents in appealed cases, shall likewise be considered applicable to defendants in original suits before sudder ameens; but no person shall be admitted by a sudder ameen to prosecute or defend an original suit or appeal in *formâ pauperis*, without the written order of the zillah or city judge, authorizing the admission of the party as a pauper under the provisions of Regulation XXVIII, 1814.—Reg. XIII, 1824, sec. iv, cl. 3.

312. The judges who are empowered by paragraphs 293 to 300 to employ an authorized officer of the court in taking the examinations of parties and witnesses for the purposes therein specified, may however employ the sudder ameens attached to their respective courts, in taking such examinations and generally in making the inquiries provided for by that Regulation. But no final order for the admission of a pauper shall be passed by a sudder ameen, nor shall the commitment of pauper plaintiffs to close custody, in pursuance of paragraphs 306 to 368, be carried into execution by a sudder ameen, without the sanction of the judge.—Reg. XIII, 1824, sec iv, cl. 4.

### CASES IN FORMA PAUPERIS.—APPEALS.

313. If any party to an original suit may be desirous of appealing in *formâ pauperis* from the decision passed in such suit, he shall present a petition to the court by which his appeal may be regularly cognizable under the Regulations.—Reg. XXVIII, 1814, sec. xii, cl. 1.

314. Such petition shall be accompanied by an authenticated copy of the decree, and shall contain a schedule of the whole real or personal property belonging to the petitioner, and the estimated value of such property, together with a statement of the specific grounds on which the petitioner may desire to prefer an appeal.—Reg. XXVIII, 1814, sec. xii, cl. 2.

315. If upon a perusal of the petition and a copy of the decree, the original judgment shall not appear to the court to be erroneous or unjust, or if the nature of the cause shall not appear to be of sufficient importance to merit a further investigation in appeal, the court will reject the petition, and will refuse to admit the petitioner to sue in appeal as a pauper.—Reg. XXVIII, 1814, sec. xii, cl. 3.

316. Provided, however, that the petitioner shall nevertheless be entitled to institute his appeal, on performing the conditions of appeal prescribed by the Regulations for persons not suing as paupers.—Reg. XXVIII, 1814, sec. xii, cl. 4.

317. If upon a perusal of a petition presented under the preceding rules, and of the copy of the decree accompanying it, the court shall be of opinion that there is reason to believe the judgment to be erroneous or unjust, or that the nature of the cause renders it deserving of a further investigation in appeal, the court is empowered to admit the appeal, subject to the rules and conditions prescribed in paragraphs 293 to 301. Paragraphs 302 to 309 shall also be considered applicable to persons who may be admitted to appeal in *formâ pauperis*.—Reg. XXVIII, 1814, sec. xiii.

318. If a decision be passed in any original suit in favour of a pauper plaintiff, and the adverse party shall appeal from such decision, the principles of the rules contained in paragraphs 303 to 305 shall, without any further inquiry, be considered applicable to the respondent or original pauper plaintiff in such appealed suit, provided that the execution of the original decree shall have been suspended during the appeal.—Reg. XXVIII, 1814, sec. xiv.

319. If a decision in favour of a pauper plaintiff be reversed in appeal, the amount of the stamp duty substituted for the institution fee which may have been paid by the appellant shall be returned to him by the court, together with such portion of the deposit which may have been made by him on account of the fee payable to his vakeel, as may be deemed reasonable, and the amount of such stamp duty and deposit, as well as other costs and expenses which may be awarded in the decree against the respondent, shall be recovered from any property which the respondent may at any time be found to possess.—Reg. XXVIII, 1814, sec. xv.

320. If a defendant or respondent in any suit (except in the case provided for by paragraph 318)

shall be desirous of being admitted to plead in *formâ pauperis*, he shall appear, either in person or by an authorized agent, before the court in which the suit may be depending, and shall present a petition containing an exact schedule of the whole real or personal property belonging to him, and theestimated value of such property.—Reg XXVIII, 1814, sec xvi, cl 1.

321 The court to whom such petition may be presented shall then proceed in conformity with paragraphs 296 to 300—Reg XXVIII, 1814, sec. xvi, cl 2.

322 If, after the examination and inquiries prescribed in those paragraphs, the court shall be satisfied that the petitioner is not possessed of sufficient property to defray the probable expenses of the suit, and that he can neither plead the suit in person nor prevail on any of the authorised pleaders of the court to undertake the defence of the suit, the court is empowered to grant to the petitioner the same advantages and facilities in the defence of the suit as are allowed to pauper plaintiffs and appellants, under paragraphs 302 to 305, and no security except for personal appearance shall be required from such defendant or respondent.—Reg XXVIII, 1814, sec. xvi, cl. 3.

323 The rules contained in Regulation XXVIII, 1814, are intended to apply to regular suits and appeals only, and not to summary suits or summary appeals of any description, but the provisions in that Regulation respecting appeals in *forma pauperis* from decisions passed in original suits, shall be considered applicable to any second or special appeals which may be preferred in *forma pauperis*, and which may be deemed admissible under the rules in force in respect of special appeals Reg XXVIII, 1814, sec. xvii; Reg. II, 1825, sec. v.

324. Copies of the proceedings and judgments of the Sudder Dewanny Adawlut in appeal to the Queen in Council shall be furnished without expense to paupers who may be parties in such appeals, and shall be written on unstamped paper of European manufacture—Reg. XXVIII, 1814, sec xviii.

325 The proviso contained in paragraph 293, in regard to females of rank, shall be applicable, at the discretion of the Courts of Sudder Dewanny Adawlut of the presidency of Fort William in Bengal respectively, to any party desirous of appealing in *formâ pauperis* to either of those courts—Act XIX, 1840

NOTE.—For procedure in summary suits for recovery of arrears of revenue and rent and regarding indigo (See under the head "REVENUE")

For procedure against public officers European and Native, for breach of duty (See under the head "PUBLIC OFFICERS")

For procedure in suits in which soldiers are parties (See under the head "MILITARY")

# CIVIL JUDICATURE.

## PROCEDURE ON THE TRIAL OF APPEALS.

### TABLE OF ENACTMENTS.

| Original Regulation or Act | | | Paras. in Consolidation. | REMARKS. |
|---|---|---|---|---|
| 1793. | V. | iii. to v. | | Superseded by the abolition of the Provincial Courts of Appeal |
| | | vi., vii. | | Inoperative |
| | | viii. | | Rescinded by sec v, Reg. II, 1798 |
| | | x. | | First part inoperative; latter part superseded by sec xxvi, Reg. V, 1831 |
| | | xi. | 21 | |
| | | xii., xiii. | 20, 23, 27 | The omitted portions are superseded |
| | | xiv. | | Superseded by later enactments |
| | | xviii. | 33 | |
| | | xix. | | Superseded by Acts V, 1840, and VII, 1841 |
| | | xxi. | | Superseded by Acts XXIX, 1841, and XVI, 1845 |
| | | xxii. | 22 | |
| | | xxvii. | | Superseded by the abolition of the Provincial Courts |
| | | xxix. | 29 | |
| | | xxx. | | Superseded by the sec. xxviii, Reg. V, 1831 |
| | | xxxi. | | Rescinded by sec. ii, Reg. XIX, 1797 |
| | | xxxii. | 30 | |
| | VI. | iv., 1 | 143 | |
| | | iv., 2 | | Rescinded by sec. v, Reg. II, 1798 |
| | | v., 1 | | Superseded by later enactments |
| | | v., 2 | | Rescinded by sec. v, Reg. II, 1798 |
| | | vii | 21, 46, 151 | |
| | | viii. | | Rescinded by sec. ii, Reg. X, 1806 |
| | | ix., 1 & 2 | | Extinct |
| | | ix., 3 | 49 | |
| | | x, xi. | 20, 23, 27 | The omitted portions are superseded |
| | | xii. | | Superseded by Act XV, 1853 |
| | | xvi. | 33 | |
| | | xvii. | | Superseded by Acts V, 1840, and VII, 1841 |
| | | xix. | | Superseded by Acts XXIX, 1841, and XVI, 1845 |
| | | xx. | 22, 48 | |
| | | xxi. | | Superseded by Reg. XXVI, 1814; and Act XVII, 1841 |
| | | xxviii. | 29 | |
| | | xxix. | | Superseded by later enactments |
| | | xxx. | | Rescinded by sec. xviii, Reg. II, 1801 |
| | | xxxi. | 30 | |
| 1796. | XIII. | ii. | | Superseded by sec. xi, Reg. XIII, 1808 |
| | | iii. | 37 | |
| 1797. | XVI. | ii. to v. | 125 to 127, 131 | Additions from Order in Council 13th June, 1853 |
| | | vi. | 132 | |
| | | vii. | 133 | |
| 1798 | II | v. | | Unnecessary: only rescinds |
| | | vi., vii. | 142, 47 | |
| | | viii. | | Superseded by the abolition of the Provincial Courts |
| | | ix. | | Unnecessary; only rescinds |
| 1801 | II. | vi., xiii. | 86 | |
| | | xix. | 29 | |
| 1807. | I. | ii. | | Unnecessary; only rescinds |

| Original Regulation or Act. | Paras. in Consolidation. | REMARKS |
|---|---|---|
| 1807. I iii. | | Superseded by Reg. IX, 1831 |
| iv., 1 | | Superseded by cl. 2, sec. xiii, Reg XIII, 1810 |
| iv., 2 | 1st part in 99 | Last part superseded by sec. ii, Reg. IX, 1831 |
| iv., 3 | | Superseded by sec. ii, Reg. IX, 1831 |
| iv., 4 | 1st part in 99 | Last part superseded by sec. ii, Reg. IX, 1831 |
| iv., 5 to 8 v., vi. | | Superseded by sec. ii, Reg. IX, 1831 |
| vii | 100 | |
| 1810. XIII. ii., iii. | | Superseded by the abolition of the Provincial Courts |
| iv., 1 | | Unnecessary; only introductory |
| iv., 2, 6 | 99 | |
| iv., 3 to 5, v. | | Superseded by later enactments |
| vi., 1 | | Unnecessary; only introductory |
| vi., 2 | 90 | |
| vi., 3, 4, vii | | Superseded by sec. ii, Reg. IX, 1831 |
| viii. | 99 | |
| ix., x. | | Rescinded by sec. ii, Reg. XXIII, 1814 |
| xi. | | Superseded by Reg. X, 1829 |
| 1814 XXIII. xlvi. | 7 to 11 | |
| lxxiii | | Incorporated with the sections therein referred to |
| XXIV. vi., 2 | 1 | |
| vi., 3, 4 | | Superseded by Reg. V, 1831 |
| XXV. ii., iii. | | Superseded by the abolition of the Provincial Courts |
| iv. | | Rescinded by sec. viii, Reg. IV, 1823 |
| v., 1 | 89 | |
| v., 2 to 5 | | Superseded by Act XVI, 1853 |
| vi. | 90 | |
| vii. | | Superseded by the abolition of the Provincial Courts |
| viii. | | Superseded by Act II, 1843 |
| ix. | | Superseded by later enactments |
| xi. to xiv. | | Inoperative |
| xvi. | | Incorporated with the sections therein referred to |
| xviii | 86 | Last part superseded by Reg. III, 1829 |
| XXVI. ii., 1, 2 | | Superseded by Act XVI, 1853 |
| ii., 3 to 5 | 121 to 123 | |
| ii., 6, 7 | | Superseded by Acts I, 1846, and XVI, 1853 |
| iii., 1 | | Unnecessary; only rescinds |
| iii., 2 | 144 | |
| iii., 3 | | Superseded by the abolition of the Provincial Courts |
| iii., 4 | 145 | |
| iii., 5 to 10 | 149, 150, 152 to 155 | |
| viii., 1 | | Unnecessary; only introductory |
| viii., 2, 3 | 12, 13 | |
| viii., 4 | | Repealed by sec. i, Act 1, 1846 |
| viii., 5 | 14 | |
| viii., 6 | | Superseded by Act XV, 1853 |
| viii., 7 to 11 | 15 to 19 | |
| ix. | 24 to 26 | |
| XXVIII. xviii. | 130 | |
| 1825. II. v. | 124 | |
| VII. v., 2 | 157 | |
| 1828. III. iv., 5 | 135 | |
| 1831. V. xvi., 1 | | Unnecessary; only introductory |
| xvi., 2, 3 | 34, 31 | Additions from sec. i, Act VIII, 1850, in cl. 3 |
| xviii., 4 | 21 | |
| xix., 1 | 166 | |
| xxvii., 1, 2 | | Superseded by the abolition of the Provincial Courts |
| xxviii. | 1, 2, 4 | |
| VI. vii. | 86 | |
| IX. ii., 1 to 3 | 35 90, 91, 92 | |
| ii., 4 | 93 | Additions from sec. i, Act II, 1843 |
| ii., 5 to 7 | 96 to 98 | |
| viii. | 27 | |
| ix., x. | 86 | |

| Original Regulation or Act. | | | Paras. in Consolidation. | REMARKS |
|---|---|---|---|---|
| 1832. | VII. | ii., 1 | | Superseded by Act XV, 1853 |
| | | ii., 2 | | Repealed by sec. ix, Act XXV, 1837 |
| | | ii., 3, 4 | 5, 6 | |
| | | xii. | | Superseded; the office of register to Zillah Court being abolished |
| | | xiii. | | Superseded by Act XVI, 1853 |
| | | xv. | 90 | |
| | | xviii. | | Extinct |
| 1836. | XI. | i. | | Unnecessary; only repeals |
| | | ii. | 45 | |
| 1837. | III. | i., ii. | 87, 88 | |
| | XXV. | iv to vi. | 2, 3 | |
| | | ix. | 5 | |
| 1838 | VII | | 35 | |
| | XXII | i., ii. | 146, 147 | |
| 1839. | XI. | | 134 | |
| 1841. | XXIX. | i. to iii. | 39 to 41, 158 | |
| 1843. | II. | i., ii. | 93, 94 | |
| | III. | | | Repealed by sec. i, Act XVI, 1853 |
| | VI. | ii. | 2 | |
| | | v. | 38 | |
| 1844. | II. | i., ii. | 128, 131 | Additions from Order in Council, 13th June, 1853. |
| | IX | iv. | 148 | |
| 1845. | XVI. | i. | 42 | |
| | | ii. | | Extinct |
| | | iii. | 43 | |
| 1847. | XVII. | | 44 | |
| 1850. | IV | i. to iii. | | Repealed by sec. i, Act XV, 1853 |
| | VIII. | i. | | Incorporated with cl. 3 sec. xvi, Reg. V, 1831 |
| | | ii. | 32 | |
| | XXX. | ii., to iv. | | Repealed by sec i, Act XV, 1853 |
| 1851. | II. | | 95 | |
| 1852. | XXV. | i. to v. | 136 to 140 | |
| | | vi. | | Only declares to what provinces the Act applies |
| | XXVI. | ix. | 35 | |
| 1853. | XV. | i. | | Unnecessary; only repeals |
| | | ii., to xvi. | 50 to 85 | |
| | XVI. | i. | | Unnecessary; only repeals |
| | | ii., iii. | Extinct | |
| | | iv. to x. | 1, 101 to 120 | |
| | | xi. | | Unnecessary; only declares what rules remain in force |
| | XIX. | | 28 | Merely a few words adapted from that Act. |
| 1854. | IX. | | 36 | |

# TABLE OF DIVISIONS.


| TITLES OF DIVISIONS. | Nos. of Paragraphs. |
|---|---|
| APPEALS—REGULAR. | |
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| General Rules .. .. .. .. .. .. .. | 8 to 38 |
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# CIVIL JUDICATURE.

## PROCEDURE ON THE TRIAL OF APPEALS.

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### APPEALS—REGULAR.

#### FROM AND TO WHAT JURISDICTION.

1. An appeal shall lie to the zillah or city judges from all decisions which may be passed on the trial of original suits by the moonsiffs and sudder ameens; and the decisions thereupon shall be final except on special appeals under Act XVI, 1853.—Reg. XXIV, 1814, sec. vi, cl. 2; Reg. V, 1831, sec. xxviii, cl. 1; Act XVI, 1853, sec. iv.

2. In all suits originally decided by the principal sudder ameens, the amount or value of which may not exceed 5,000 rupees, and in respect of all interlocutory orders passed by them in such suits, an appeal shall lie to the zillah or city judge, and a further or special appeal to the Sudder Dewanny Adawlut; but in all suits exceeding the above amount or value, and in respect of all interlocutory orders in such suits, the appeal from the decision of such principal sudder ameen shall be direct to the court of Sudder Dewanny Adawlut, and shall be conducted in all respects and according to the same rules as if it were an appeal from the decision or interlocutory orders of a zillah judge to the said court of Sudder Dewanny Adawlut.—Reg. V, 1831, sec. xxviii, cl. 2; Act XXV, 1837, sec. iv; Act VI, 1843, sec. ii.

3. Whenever a zillah or city judge shall have referred for trial to a principal sudder ameen a suit within the competency of a moonsiff to decide, and such suit shall have been decided by a principal sudder ameen, the appeal from such decision shall lie to the zillah or city judge, and shall be tried by him only, and the decision of the zillah or city judge on such appeal shall be final, anything in the existing Regulations to the contrary notwithstanding.—Act XXV, 1837, secs. v and vi.

4. In all suits originally decided by the zillah or city judge, an appeal shall lie to the Sudder Dewanny Adawlut.—Reg. V, 1831, sec. xxviii, cl. 3.

#### TIME FOR PREFERRING.

5. In all cases in which an appeal from the orders or decision of a principal sudder ameen, sudder ameen or moonsiff, to a zillah or city judge is authorised by law, such appeal shall not be received, unless the same be preferred within the period of thirty days from the date of the order or decision of the said principal sudder ameen, sudder ameen or moonsiff, to be calculated according to the rules prescribed in paragraph 18, or unless it shall be proved that the appellant was prevented by circumstances beyond his control from presenting his appeal within the above-mentioned period.—Reg. VII, 1832, sec. ii, cl. 3; Act XXV, 1837, sec. ix.

6. It is hereby declared that the foregoing limitations shall be strictly adhered to, notwithstanding the intervention of Hindoo or Mussulman holidays, or the established vacations, within the prescribed periods for preferring appeals. When such periods, however, may expire during an adjournment of the court, on account of any holiday or vacation, no default shall attach to the appellant, provided his petition of appeal be presented immediately on the re-opening of the court —Reg. VII, 1832, sec. ii, cl. 4.

7. Any person dissatisfied with the decision of a moonsiff or a sudder ameen, shall be at liberty to appeal from it to the judge, provided the petition of appeal be presented within thirty days after the date on which copies of the decrees may have been furnished or tendered to the parties or to their vakeels. A discretionary power, however, is vested in the judge of admitting appeals from decisions of the moonsiffs and sudder ameens, although the petitions may not be presented within the prescribed period, if the appellant shall show satisfactory cause for not having before presented the petition.—Reg. XXIII, 1814, sec. xlvi. cl. 1, and sec. lxxiii.

#### GENERAL RULES.

8. All petitions of appeal from decisions of the moonsiffs and sudder ameens are to be presented to the judge of the zillah or city in which the moonsiffs or sudder ameens may

officiate, and those officers are prohibited from receiving any petitions of appeal from their own decisions.—Reg. XXIII, 1814, sec. xlvi, cl. 2, and sec. lxxiii.

9. All petitions of appeal from decisions of moonsiffs and sudder ameens are to be presented by the appellant in person, or by one of the authorised vakeels of the court; and if the appeal shall be admitted, and the appellant and respondent shall not plead their cause in person, their respective vakeels are to be allowed the same fees as in other suits tried before the judge.—Reg. XXIII, 1814, sec. xlvi, cl. 3, and sec. lxxiii.

10. Decisions of the moonsiffs and sudder ameens are not to be set aside for want of form or for irregularity in their proceedings, but on the merits only.—Reg. XXIII, 1814, sec. xlvi, cl. 4, and sec. lxxiii.

11. When an appeal may be received from the decision of a moonsiff or a sudder ameen, the judge is empowered to suspend the execution of the decree, provided the party appealing against it shall give good and sufficient security within a reasonable period to be fixed by the judge, to perform the decree of the court.—Reg. XXIII, 1814, sec. xlvi, cl. 5, and sec. lxxiii.

12. Any party who may be desirous of appealing from a judgment passed against him by a principal sudder ameen, which may be appealable to the Zillah Court shall be at liberty to present his petition of appeal, without an authenticated copy of the decree to the court in which the decision may have been passed. Such petition of appeal shall not be required to contain the specific grounds or reasons of the appeal, but may state shortly that the party being dissatisfied with the judgment is desirous of appealing from it. The petition must be written on stamped paper, according to the rates and provisions contained in No. 8, Schedule B, Regulation X, 1829.—Reg. XXVI, 1814, sec. viii, cl. 2.

NOTE.—The option of presenting the petition of appeal in the court of original jurisdiction, or in the court appealed to, is left to the principal sudder ameen only, as representative of the register, in suits appealable from that officer to the Zillah Court. Petitions of appeal from the sudder ameens and moonsiffs must be presented in the Zillah Court, and those to the Sudder Dewanny Adawlut in the court appealed from.

13. The principal sudder ameen, after referring to the decree in the original record of the suit, shall then admit the appeal; provided that the petition of appeal shall have been duly presented in the mode above prescribed, within the periods limited for the admission of such appeals under the existing Regulations.—Reg. XXVI, 1814, sec. viii, cl. 3.

14. The specific objections to the judgments and detailed grounds and reasons for preferring the appeal may be stated at the option of the party in the original petition of appeal, or may be subsequently filed in the court trying the appeal as a separate pleading. In the latter case, such pleading is to be written on the stamped paper, and according to the rates prescribed for other pleadings in No. 9, Schedule B, Regulation X, 1829.—Reg. XXVI, 1814, sec. viii, cl. 5.

15. Under the preceding rules, parties in suits decided in the first instance in the court of a principal sudder ameen, and appealable to the Zillah Court, will be enabled to prefer an appeal from such decision without the necessity of filing an authenticated copy of the decree; but if any party in a suit which may be so appealable to a Zillah Court may be desirous, under the option allowed by the Regulations, of presenting his petition of appeal in the court by which the appeal is to be tried, rather than in the court by which the decision may have been passed in the first instance, it shall be requisite for such party to file with his petition of appeal an authenticated copy of the decree.—Reg. XXVI, 1814, sec. viii, cl. 7.

16. For the purpose of obtaining an authenticated copy of the decree, the party desiring it shall furnish to the court by whom the decision may have been passed, one, two, or more sheets or rolls of the stamped paper prescribed in No. 2, Schedule B, Regulation X, 1829, as may be necessary for transcribing the decree.—Reg. XXVI, 1814, sec. viii, cl. 8.

17. When such stamped paper shall be furnished, the court shall cause to be endorsed on it the date of its being furnished, the name of the party on whose account it may be presented, and the number of the suit to which it may be intended to be applicable, and shall grant to the party a corresponding receipt for the same on unstamped paper; the copy of the decree shall then be prepared and duly authenticated, and shall be delivered or tendered to the party by whom the stamped paper may have been furnished, or to his vakeel in open court, and the date of the delivery or tender of such copy shall be also endorsed on the copy.—Reg. XXVI, 1814, sec. viii, cl. 9.

18. The respective periods limited by the Regulations for the admission of appeals shall be calculated from the date on which the decision may have been passed; excluding from the calculations of such period the interval which may have elapsed, in each instance, between the date on which the requisite stamped paper may have been furnished by the party to the court, and that on which the copy of the decree may have been tendered or delivered to the party in open court, in the mode prescribed by the Regulations. The courts will, in all cases, be enabled to ascertain such interval by the endorsements on the copy of the decree required to be made under the preceding paragraph.—Reg. XXVI, 1814, sec. viii, cl. 10.

19. The principles of the rules contained in paragraphs 16 to 18, are to be considered applicable to all copies of decrees from which a party may be desirous of preferring a special or a summary appeal; and to all copies of orders passed by the judges of the Zillah and City Courts, and by the Sudder Dewanny Adawlut, which those courts may be required to furnish to parties under the provision of any Regulation.—Reg. XXVI, 1814, sec. viii, cl. 11.

20. Whenever a court of appeal shall admit an appeal which may have been preferred to them after the limited time, they are to enter on the record of the trial their reasons at large for admitting the appeal.—Reg. V, 1793, sec. xii; Reg. VI, 1793, sec. x.

21. In the hearing, trying, and deciding of regular appeals, the zillah judges, and the principal sudder ameens when appeals are referred to them by the zillah judges, are to be guided generally by the same rules as are prescribed to the courts of original jurisdiction in respect of original suits.—Adapted from Reg. V. 1793, sec. xi; Reg. VI, 1793, sec. vii; Reg. V, 1831, sec. xviii, cl. 4.

22. In appeals which may be preferred to the courts of appeal, no proceedings are to be held, or any acts whatever done, either on behalf of the appellants or respondents, except by the appellants or respondents themselves, or by a vakeel admitted to plead in the court under Act I, 1846; nor by any vakeel before his vakalutnamah shall have been filed in the court; and no persons, excepting such parties or their witnesses, or such vakeels, shall be heard, *viâ voce*, in any stage in the cause.—Reg. V, 1793, sec. xxii, and Reg. VI, 1793, sec. xx.

23. In all regular appeals the petition is to state (respect being had to the matter decreed) the annual produce of the lands, whether lakhiraj or malguzary, the sum of money or the value of the property which may be decreed, the name of the person in whose favour the decree may be given, the court in which it may have been passed, when it was made, what was decreed by it, and whether the decree has been executed.—Reg. V, 1793, sec. xii; Reg. VI, 1793, sec. x.

24. The pleadings in appealed suits shall be conducted and filed in the same manner and under the same rules as pleadings in original suits subject to the following modifications.—Reg. XXVI, 1814, sec. ix, cl. 1.

NOTE.—Act XV, 1853, having repealed Act IV, 1850, and secs. ii, iii, and iv of Act XXX, 1850, which related to appeals to the Sudder Dewanny Adawlut, the following provisions seem to be still applicable to appeals from the lower courts to the Zillah Courts, which stand in the same relation to those courts as the Provincial Courts did to the Zillah Courts under Reg. V, 1793. The following provisions are therefore retained as applicable in appeals to the Zillah Courts

25. In all regular civil suits which may be appealed to a Zillah or City Court, or to the Sudder Dewanny Adawlut, it shall be left to the option of the respondent either to file an answer to the petition and reasons of appeal, or not, as he may judge proper: Provided, however, that if no answer shall be filed by a respondent, it shall be competent to the court trying the appeal, in all cases in which it may be deemed expedient, to direct the respondent to file an answer to the petition of appeal, or to any particular points in it which may appear to require an answer or explanation.—Reg. XXVI, 1814, sec. ix, cl. 2.

26. No further pleadings beyond the answer of the respondent shall be admitted in any appealed suits, except the duplicate of the plaint provided for by clause 1, section vii, Regulation XXVI, 1814 ("PROCEDURE ON THE TRIAL OF ORIGINAL SUITS," paragraph 19), or such supplemental pleadings as may be authorised by the court under the provisions of clause 3, section vi, of that Regulation ("PROCEDURE ON THE TRIAL OF ORIGINAL SUITS," paragraph 18).—Reg. XXVI, 1814, sec. ix, cl. 3.

27. Fifteen days after the receipt of the appeal, the court from which the appeal may have been preferred, is to certify, under the hand of the judge and the seal of the court to the court to whom the appeal has been preferred the record duly made up and authenticated, including the original pleadings, depositions, &c., exhibits filed in the case with a list of them; it shall not be necessary, in the first instance, to transmit the applications and processes for the attendance of witnesses, the returns of the nazir, and other miscellaneous papers and proceedings not material to the trial of the appeal: Provided, however, that it shall at all times be competent to the court to which the appeal shall have been made, to call for such miscellaneous papers, or to direct the parties to produce copies of the same, should the court think it necessary to refer to them. Previous to transmitting the above-mentioned papers, the judge of the court from which the appeal has been preferred, is to cause true and faithful copies of all the originals to be made out and deposited in his court in lieu of the originals. The copies are to be deemed records of the court, and are to be received in evidence in any other court. In cases where any original deposition, or other original proceedings or matter whatsoever, shall have been previously entered in the court, in any book which may likewise contain either proceedings in other distinct causes, or any other matter, so that such original papers cannot be transmitted to the court appealed to without the other proceedings or matters, the judge of the court appealed from in the manner before directed, is to certify a true and authentic copy of such original papers, and that the original of each copy transmitted is so entered in such book. But he is, nevertheless, to transmit the original pleadings

of the parties, and the original exhibits which shall have been delivered in or produced by the parties, and read in the course of the cause before the court, if they be forthcoming, in the manner before required. In cases where any original paper shall have been mislaid or lost, and a copy of it shall have been entered in any book of proceedings, the copy is to be deemed the original, and the judge is to transmit a copy of it to the court appealed to, and in like manner to certify it, and that the original, after due search, cannot be found.—Reg. V, 1793, sec. xiii; Reg. VI, 1793, sec. xi; Reg. IX, 1831, sec. viii.

28. The courts of appeal shall be guided by the provisions of Act XIX, 1853 ("PROCEDURE ON THE TRIAL OF ORIGINAL SUITS" paragraphs 24 to 67), in respect of the attendance and examination of witnesses, and all matters to which that Act relates.—Adapted from Act XIX, 1853.

29. The petition of appeal, pleadings, depositions, and exhibits in the courts of appeal, are to be numbered, marked, dated, and signed in the same manner as the complaint, pleadings, depositions, and exhibits are ordered to be numbered, marked, dated and signed in the courts of original jurisdiction. The decrees are to be signed by the judges, and attested, and copies so signed and attested are to be delivered to the parties.—Reg. V, 1793, sec. xxix; Reg. VI, 1793, sec. xxviii.

30. In cases for which no specific rules may exist, the courts of appeal are to act according to justice, equity, and good conscience.—Reg. V, 1793, sec. xxxii; Reg. VI, 1793, sec. xxxi.

31. Whenever an appeal shall be preferred to a zillah or city judge from the decision of any moonsiff, sudder ameen, or principal sudder ameen, and whenever any such appeal may be referred by a zillah judge to a principal sudder ameen under the provisions of paragraph 34, it shall not be necessary to serve any process on the respondent in the first instance; and if, after the perusal of the record of the original suit and the petition of appeal in the presence of the appellant or his vakeel, the judge or principal sudder ameen shall see no reason to alter the decision appealed from, it shall be competent to him to confirm the same, and to communicate the order for confirmation through the court from whose judgment the appeal was made to the respondent, with a view to enable such respondent to take immediate measures for the execution of the decree.—Reg. V, 1831, sec. xvi, cl. 3; Act VIII, 1850, sec. i.

32. Every judge and principal sudder ameen who shall confirm any decision under the preceding rules without giving notice to the respondent, shall record his reasons for rejecting the appeal.—Act VIII, 1850, sec. ii.

33. The courts of appeal are empowered in cases of appeals, in which it shall appear to them that the original suit has not been sufficiently investigated in the lower court, or for any other cause that may be deemed reasonable by the court of appeal, either to receive such further evidence as they may think necessary for the just determination of the suit, and to give judgment upon it, or to refer the suit back to the court in which it originated, accompanied by such special directions to the judge with regard to the new evidence he is to receive respecting it, as may be deemed by the court most conducive to justice and the convenience of the parties and witnesses. But in every case in which the court of appeal may exercise the power above vested in them by this paragraph, they are to enter upon the record of the trial their reasons for having exercised it. In cases in which the court may judge it proper to receive such further evidence themselves, they are empowered to examine the witnesses to be produced, *vivâ voce*, in open court, in conformity with the rules in that behalf contained in Act XIX, 1853.—Reg. V. 1793, sec. xviii; Reg, VI, 1793, sec. xvi.

34. It shall not be competent to a zillah or city judge to refer any appeal for trial to a sudder ameen, but whenever it may appear to any such zillah or city judge that his file is so heavy as to make it impracticable for him to dispose of all the appeals which may be pending with reasonable despatch, he shall make a special report of the case to the Sudder Dewanny Adawlut, soliciting permission of that authority to refer such specified number of appeals from the decisions of moonsiffs or sudder ameens, as he may deem necessary for trial, to the principal sudder ameen attached to his court, in which case it shall be competent to the court of Sudder Dewanny Adawlut to comply with the application for the transfer.—Reg. V, 1831, sec. xvi, cl. 2.

35. In the trial of any appeal or on the hearing of any petition of appeal from any decision or order of any court of inferior jurisdiction if a single judge of the Sudder Dewanny Adawlut, or a zillah or city judge, or a principal sudder ameen to whom such appeal has been referred by a zillah or city judge, shall be of opinion that no sufficient ground has been shown to impugn the correctness or justness of such decision or order, it shall be competent to such judge, without reference to the order of the file, to confirm the same without the attendance of the opposite party, and with or without a revision of the whole proceedings, as the nature of the case may appear to require. On the other hand, if a single judge shall be of opinion that the decision or order appealed against ought to be altered or reversed as being manifestly unjust or at variance with some Regulation in full force, or in opposition to the Hindoo or Mahomedan law, or other law applicable to the case, or as having been passed without sufficient investigation of the merits, or as grounded on an assumption

obviously erroneous or irrelevant with reference to the points at issue, it shall be competent to such single judge of the Sudder Dewanny Adawlut, zillah judge, or principal sudder ameen, to issue an injunction pointing out the irregularity, illegality, or other defect apparent in the proceedings, decision, or order appealed against, and requiring that the court by which the same may have been held or passed shall revise the case, and proceed thereon in such manner as may appear conformable to justice and to the Regulations.—Reg. IX, 1831, sec. ii, cl. 2; Act VII, 1838; Act XXVI, 1852, sec. ix.

36. No order or decision of any of the civil courts of the East India Company shall be reversed, altered, or remanded on account of any error, defect, or irregularity, not productive of injury to either party.—Act IX, 1854.

37. To prevent the encouragement of litigious appeals, the lower courts of appeal, in all cases wherein they may confirm the decree of a lower court, are to adjudge interest, at the rate of one per cent. per mensem, on all sums receivable by the respondent under the decree passed in his favour, from the date of such decree, and are authorised to punish appeals which may appear to them litigious by a fine to Government, proportionate to the condition of the party and the circumstances of the case.—Reg. XIII, 1796, sec. iii.

38. Decrees passed in the courts of the judges or principal sudder ameens, in cases of appeal from the decisions of the sudder ameens or moonsiffs, shall be executed by the courts in which the original decisions were passed, under the general rules prescribed for the execution of decrees passed by those courts—applications for the execution of such decrees shall be presented, together with a certified copy of the decree of the judge or principal sudder ameen, to the court of original jurisdiction. In appeals from the orders of the moonsiff or sudder ameen in such cases the decision of the zillah or city judge shall be final.—Act VI, 1843, sec. v.

### CONSEQUENCES OF NON-PROSECUTION AND DEFAULT.

39. If a plaintiff or appellant in any court shall at any time neglect to proceed in his suit or appeal for six weeks, the suit or appeal shall be dismissed; and it shall not be necessary to give the plaintiff or appellant any notice previous to dismissing his suit or appeal. The suit or appeal shall be dismissed as of course after the expiration of six weeks, without any proceeding on the part of the court, or of the defendant, or otherwise, or assignment of any reasons, unless the plaintiff or appellant, or his representative in case of his death, upon special application, shall have previously satisfied the court of the propriety of allowing further time. The court shall record upon the proceedings the reasons at large for allowing further time in all cases in which further time may be allowed; but it shall not be necessary to specify the reasons for refusing any application for further time.—Act XXIX, 1841, sec. i.

40. In all cases in which a suit or appeal is dismissed under the preceding paragraph, the court shall award to the defendant or respondent the costs he may have incurred in the suit or appeal. But such dismissal shall be no impediment to the institution of a new suit or appeal, where the party is not precluded by lapse of time, or period of appeal or otherwise than by the mere circumstance of having instituted the suit or appeal dismissed, and of such dismissal; and such dismissed suit or appeal shall not prevent lapse of time under the law of limitations being incurred. —Act XXIX, 1841, sec. ii.

41. No appeal shall lie against the decision passed in accordance with the provisions of the preceding paragraphs, other than a summary appeal on the part of default.—Act XXIX, 1841, sec. iii.

42. Whenever an appeal in any civil courts shall have been dismissed under the provisions of Act XXIX, of 1841 (paragraphs 39 to 41), it shall be competent to the court which shall have dismissed such appeal to re-admit the same if the appellant shall make application for that purpose on the stamp prescribed for miscellaneous petitions, within three months after the appeal shall have been dismissed, if dismissed by the Sudder Court, and within one month after the appeal shall have been dismissed, if dismissed by any other court, and shall satisfy the court that the dismissal was occasioned by the default of his vakeel or by unavoidable accident.—Act XVI, 1845, sec. i.

43. Provided always that no appeal which has been re-admitted under this Act, and again dismissed under the provisions of Act XXIX, of 1841, shall be again re-admitted.—Act. XVI, 1845, sec. iii.

44. In any civil court, every default of a plaintiff or appellant, in all suits or appeals, and in all suits open to appeal, shall be held to be cured whenever the opposite party, passing over the default, shall have taken any step in the suit or appeal, and whenever the court shall have passed judgment in the suit or appeal, whether such opposite party shall or shall not have taken any such step.—Act XVII, 1847.

## SUDDER DEWANNY ADAWLUT.

### GENERAL POWERS.

45. No person whatever shall, by reason of place of birth, or by reason of descent, be, in any civil proceeding whatever, exempted from the jurisdiction of the Courts of Sudder Dewanny Adawlut.—Act XI, 1836, sec. ii.

46. In matters which the Sudder Dewanny Adawlut may be empowered by any Regulation to try in the first instance, and also in appeals that may be preferred to the court from decisions of the lower courts, the court is to proceed in the same manner, and with the like powers and authority and subject to the same restrictions, limitations, and exceptions, as are prescribed to the Zillah and City Courts.—Reg. VI, 1793, sec. vii.

47. The Sudder Dewanny Adawlut are vested with authority to receive any petitions respecting suits or matters that may be depending, or have been decided, in any lower court; and provided it shall be proved to their satisfaction that the petition was presented to the judge of such court, and that he refused or omitted to receive it and proceed on it, and that the complainant applied to the court appealed from, and that such court omitted or refused to grant the precept specified in section vi, Regulation II, 1798, the court are empowered to issue a precept, under the seal of the court and attested by the register, commanding the judge to receive the petition, and to proceed respecting it according to the Regulations.—Reg. II, 1798, sec. vii.

48. In such suits as by any Regulation may be authorized to be tried in the first instance before the Sudder Dewanny Adawlut, and in appeals that may be heard by that court, no proceedings are to be held, nor any acts whatever done, either on behalf of the plaintiff or defendant, or the appellant or respondent, excepting by the plaintiff or defendant, the appellant or respondent respectively, or by a vakeel admitted to plead in the court, nor by any vakeel before his vakalutnamah shall have been filed in the court; and no persons excepting such parties or their witnesses, or such vakeels, shall be heard *vivâ voce* in any stage in the cause.—Reg. VI, 1793, sec. xx.

49. The court are empowered to confirm or reverse, in whole or in part, all decrees from which they are or may be authorized to receive appeals, and to make such further order on all such decrees as justice, equity, and good conscience may require, and award such costs to either party as they may deem reasonable.—Reg. VI, 1793, sec. ix, cl. 3.

50. Every petition of regular appeal in a case appealable to either of the Sudder Courts shall be presented to the court in which the decision was passed within six weeks from the day of the decision. Such petition of appeal shall, except in cases of petitions under paragraphs 74 to 82, contain only notice that the party, being dissatisfied with the decision, is desirous of appealing from it.—Act XV, 1853, sec. ii, cl. 1.

51. The Sudder Court may extend the time for presenting such petition of appeal to the lower court upon being satisfied that there is sufficient cause for such extension of time. The application for such extension of time may be made directly to the Sudder Court, or through the intervention of the lower court, at the option of the applicant.—Act XV, 1853, sec. ii, cl. 2.

52. On presentation of a petition of regular appeal to the court in which the decision was passed, notice thereof to the respondent, as well as a proclamation to the same effect, shall immediately issue from that court; and a copy of the proclamation shall be forthwith fixed up in some conspicuous part of the court-house of the said court. If the notice cannot be personally served, the proclamation shall at once be fixed upon the door of the respondent's dwelling-house, or in some conspicuous place in the village or place where he usually resides; or in cases in which the respondent shall not have a fixed residence within the jurisdiction of the Company's courts, the proclamation may be fixed upon the door of his house of business or cutcherry, or the notice may be served on his known local agent. In case the proclamation cannot be fixed or the notice served in the manner above mentioned, the proclamation shall be fixed up in such other place, if any, as the said last-mentioned court shall direct. The nazir shall make a return to the court stating when and where the notice and proclamation have been served or fixed up. The return of the nazir shall be filed in court, and shall form part of the record of the case, and such return shall be published by fixing up the same in some conspicuous part of the court-house of the lower court.—Act XV, 1853, sec. iii.

53. It shall be necessary to copy, authenticate, and deposit only the exhibits in the case, and also any other papers of importance, including the pleadings, or any parts of them which either of the parties shall require to be copied, authenticated, and deposited in the lower court previously to their being transmitted to the Sudder Court.—Act XV, 1853, sec. iv, cl. 1.

54. If either of the parties require any papers to be copied, authenticated, and deposited, such party shall, either by himself or his pleader or authorized agent, give notice in writing thereof

to the lower court before the expiration of fourteen days from the time of the publication of the return of the nazir as aforesaid. Such notice shall specify the papers which the party requires to be copied, authenticated, and deposited.—Act XV, 1853, sec. iv, cl. 2.

55. Either party may by himself or his pleader or authorized agent before the presentation of an appeal, give notice in writing to the lower court, specifying any papers or documents which he requires to be copied, authenticated, and deposited in the event of an appeal being preferred.—Act XV, 1853, sec. iv, cl. 3.

56. The petition of appeal, together with the record of the lower court, shall be certified to the Sudder Court as soon as conveniently may be after the presentation of the petition of appeal: provided that the same shall not be certified within the time allowed to the parties for specifying the papers which they desire to be copied, authenticated, and deposited.—Act XV, 1853, sec. v.

57. On arrival of the appeal record at the Sudder Court, notice shall be affixed in the court-house of the said court, requiring the appellant to file, within six weeks from the date thereof, his grounds of objection to the decision of the court below. Within the said space of six weeks the appellant shall file in the said Sudder Court his grounds of objection to the decision.—Act XV, 1853, sec. vi.

58. On the filing of the grounds of objection by the appellant, notice shall be affixed in the court-house of the Sudder Court requiring the respondent to file his grounds of objection, if any, to the appeal or to the decision of the lower court within four weeks from the date of such notice.—Act XV, 1853, sec. vii, cl. 1.

59. Within the said space of four weeks, the respondent shall file any grounds of objection which he has to the appeal, or which relate to such parts of the decision as are involved in the appeal.—Act XV, 1853, sec. vii, cl. 2.

60. If the respondent shall desire to object to any part of the decision of the lower court not involved in the appeal, he may present a separate petition of appeal to the Sudder Court within the said space of four weeks, or within such further time as the said Sudder Court shall allow for that purpose.—Act XV, 1853, sec. vii, cl. 3.

61. The respondent shall in such case file with his petition of appeal his grounds of objection to that part of the decision to which his appeal relates, otherwise his appeal shall not be received.—Act XV, 1853, sec. vii, cl. 4.

62. At the expiration of the time allowed to the respondent for filing his grounds of objection and for filing a separate petition of appeal in the Sudder Court, the record shall be deemed complete, and the case ready to be called up for decision on any day which the Sudder Court may notify, unless the respondent within such time file a separate petition of appeal in the Sudder Court.—Act XV, 1853, sec. viii, cl. 1.

63. If the respondent file a separate petition of appeal in the Sudder Court, notice shall be fixed up in the court-house of the Sudder Court to the effect that the respondent has filed such separate appeal, and the notice shall require the appellant to file any grounds of objection which he may have thereto, within the space of four weeks from the date of the notice.—Act XV, 1853, sec. viii, cl. 2.

64. Within such space of four weeks the appellant may file any grounds of objection which he has to such appeal, or which relate to that part of the decision which is involved in the respondent's appeal. At the expiration of the time allowed for filing such grounds of objection by the appellant, the record shall be deemed complete, and the case ready to be called up for decision on any day which the Sudder Court shall notify for that purpose.—Act XV, 1853, sec. viii, cl. 3.

65. If the appeal of either party be dismissed or withdrawn, the appeal of the other may be heard alone; otherwise the two appeals and the proceedings thereon shall form one record, unless the Sudder Court shall otherwise order.—Act XV, 1853, sec. viii, cl. 4.

66. The respondent shall not be allowed to present a separate petition of appeal in the Sudder Court, if he shall previously have presented a petition of appeal to the lower court.—Act XV, 1853, sec. ix.

67. All grounds of objection which shall be filed by either the appellant or the respondent, shall be stated distinctly and concisely without any argument or narrative of facts, and shall be numbered consecutively, and except in the cases hereinafter mentioned, shall be on paper bearing the stamp duty prescribed by Article 9, Schedule B, Regulation X, 1829.—Act XV, 1853, sec. x, cl. 1.

68. The Sudder Court may extend the time for filing grounds of objection either by an appellant or respondent upon special application for that purpose, and upon sufficient reasons being shown to the satisfaction of the said court for such extension of time. In such case the objections may be filed within such extended time.—Act XV, 1853, sec. x, cl. 2.

69. Either party may, by leave of the Sudder Court, or any judge thereof, at any time before the hearing, amend his grounds of objection, or add grounds of objection to those filed, upon such terms and conditions, and within such time as the said court or judge may order. The said court

may also, upon the hearing of any appeal, allow either party to amend his grounds of objection, or to add further grounds, or to urge and be heard by himself or his pleader in support of any objection not included in his grounds of objection, upon such terms and conditions as to postponement of the cause, and as to the payment of costs or otherwise, as the court shall think just, to prevent the opposite party or his pleader from being taken by surprise or otherwise. Without such leave of the court, neither party shall be allowed to urge or be heard in support of any objection not included in his grounds of objection filed. But the court shall not be confined to such grounds of objection on deciding the cause.—Act XV, 1853, sec. xi.

70. The Sudder Court may call up for hearing and decision on any day the court shall notify, and without regard to the place in which the case stands in the general list of appeals, any grounds of objection filed by the respondent or the appellant to the appeal of the opposite party, and the Sudder Court may hear and decide upon such grounds of objection before calling the case up for decision upon the grounds of objection to the decision of the lower court.—Act XV, 1853, sec. xii, cl. 1.

71. If the grounds of objection filed by the appellant and respondent, shall be upon points of law only, and shall not raise any question of fact, the Sudder Court may order the case to be called up for hearing and decision on any day which the said court shall notify, without regard to the place in which it stands in the general list of appeals pending in the said court.—Act XV, 1853, sec. xii, cl. 2.

72. If the grounds of objection filed shall raise questions of law and fact, and it shall appear to the Sudder Court that the decision of the law may render it unnecessary to determine any question of fact so raised, the court may order the case to be called up for decision upon the law alone, in the first instance, in the manner pointed out in paragraph 69, and if their decision of the case upon the law shall render it unnecessary to determine any question of fact, the said court shall pass a final decision in the case, otherwise the court shall determine the law only, and the case shall be afterwards set down in the list of regular appeals for hearing upon the question or questions of fact, and shall be determined in the same manner as any other regular appeal.—Act XV, 1853, sec. xii, cl. 3.

73. If any party to a regular suit be desirous of being admitted to appeal in *formâ pauperis* to the Sudder Court, the following procedure shall be adopted.—Act XV, 1853, sec. xiii, cl. 1.

74. The appellant shall present his petition to the lower court according to the rules prescribed by paragraphs 50 and 51. Provided that a petition to appeal in *formâ pauperis* against any decision passed before this Act shall come into operation, may be presented within three months from the day of the decision.—Act XV, 1853, sec. xiii, cl. 1.

75. Petitions of appeal by parties desirous to appeal in *formâ pauperis* shall contain a statement to that effect, and also a schedule of the whole real and personal property belonging to the petitioner, and the estimated value of such property, and shall be written on paper bearing the stamp duty of two rupees per sheet.—Act XV, 1853, sec. xiii, cl. 2.

76. Upon the presentation of such petition, the notice to the respondent and the proclamation shall state that the appellant desires to appeal in *formâ pauperis*.—Act XV, 1853, sec. xiii, cl. 3.

77. On arrival of the appeal record at the Sudder Court, the same procedure shall be adopted in that court as in other cases of regular appeal, except that after the filing of the grounds of objection by the appellant, and before notice shall be given requiring the respondent to file his grounds of objection, the Sudder Court shall determine, according to the rules now applicable to the determination of such cases, whether or not the appellant shall be allowed to appeal in *formâ pauperis*.—Act XV, 1853, sec. xiii, cl. 4.

78. If the Sudder Court allow the petitioner to appeal in *formâ pauperis*, notice shall be given to the respondent to file his grounds of objection in the manner provided by paragraphs 58 to 61, and the same procedure shall be adopted subsequently thereto as in other cases of regular appeal under this Act. The rules and conditions now applicable to persons admitted by the Sudder Court to appeal in *formâ pauperis* shall continue in force except where the same are inconsistent with any of the provisions of this Act.—Act XV, 1853, sec. xiii, cl. 5.

79. If the Sudder Court refuse to allow the petitioner to appeal in *formâ pauperis*, the said court may make an order to the effect that the appellant upon filing a petition of appeal in that court, upon paper stamped with the stamp duty required by Article 8, Schedule B, Regulation X, 1829, and upon re-filing his grounds of objection on paper stamped with the stamp duty required by Article 9, of the same schedule, may proceed with the appeal according to the rules prescribed by this Act in the case of persons not appealing as paupers.—Act XV, 1853, sec. xiii, cl. 6.

80. Upon such order being made, the appellant shall file his petition and re-file his objections upon paper stamped with the stamp duty required by paragraph 78, within two weeks from the date of such order, or within such further time as the said court may allow for that purpose, otherwise the appeal shall stand dismissed.—Act XV, 1853, sec. xiii, cl. 7.

81. Upon the re-filing of the grounds of objection according to the provisions of the last preceding paragraph, notice of the order and of the re-filing of such objections shall be given to

the respondent in the manner prescribed by paragraphs 58 to 61, and the respondent shall be required to file his grounds of objection, if any, according to the provisions of those paragraphs, The procedure subsequent to such notice shall be according to the general provisions of this Act.—Act XV, 1853, sec. xiii. cl. 8.

82. If an appellant shall petition to appeal in *formâ pauperis*, his grounds of objection may be written on plain paper.—Act XV, 1853, sec. xiii, cl. 9.

83. If an appellant shall be permitted to appeal or a respondent to defend in *formâ pauperis*, all grounds of objection subsequently filed by either party may be written on plain paper.—Act XV, 1853, sec. xiv.

84. No decision shall be reversed or altered, nor shall any case be remanded upon appeal to the Sudder Court on account of any error, defect, or irregularity not productive of injury to either party, nor opposed to any express enactment contained in the general Regulations or Acts of Government.—Act XV, 1853, sec. xv.

NOTE.—The foregoing rules from paragraphs 73 to 84 affect the provisions of paragraphs 313 to 325, in Procedure on Pauper Appeals, pages 55 and 56; but in respect only of Procedure in the Sudder Dewanny Adawlut.

85. This Act extends only to regular appeals which shall be presented after the passing of this Act in civil cases appealable to either of the Sudder Courts in the Presidency of Fort William in Bengal.—Act XV, 1853, sec. xvi.

86. *How to proceed on a difference of opinion arising between the judges of the Sudder Dewanny Adawlut.*—Reg. II, 1801, secs. vi and xiii; Reg. XXV, 1814, sec. xviii; Reg. VI, 1831, sec. vii; and Reg. IX, 1831, secs. ix and x. (See "SUDDER COURT.")

87. It shall be lawful for each of the Courts of Sudder Dewanny Adawlut to direct, by an order authenticated by the official signature of the register of such Court of Sudder Dewanny Adawlut, that the cognizance of any original suit, or of any appeal which may be brought before any Zillah or City Court subordinate to such Court of Sudder Dewanny Adawlut, shall be transferred to any other Zillah or City Court subordinate to the same Court of Sudder Dewanny Adawlut.—Act III, 1837, sec. i.

88. Provided always, that whenever either of the said Courts of Sudder Dewanny Adawlut shall, in the exercise of the power given by the preceding paragraph, direct the transfer of the cognizance of any suit, such Court of Sudder Dewanny Adawlut shall cause the reasons for such transfer to be recorded on its proceedings.—Act III, 1837, sec. ii.

89. If it shall at any time appear to the Sudder Dewanny Adawlut, that from the pressure of business in any of the Zillah Courts, any suit of the amount fixed for appeals to the Queen in Council, can be more conveniently or expeditiously tried in the first instance by the Sudder Dewanny Adawlut than by the Zillah Court, before whom they may be depending, it shall be competent to the Sudder Dewanny Adawlut to order the transfer of all or any of such suits from the Zillah Courts to the Sudder Dewanny Adawlut. In the transfer and trial of such suits, the Sudder Dewanny Adawlut shall be guided by the same provisions as are prescribed for the conduct of the Zillah Courts regarding the transfer and trial of original suits depending in the Zillah and City Courts.—Reg. XXV, 1814, sec. v, cl. i.

### POWERS OF SINGLE JUDGES.

90. Whenever from any unavoidable cause, the regular sittings of the Court of Sudder Dewanny Adawlut cannot be held before two or more judges of that court, or whenever it may appear requisite for the speedy trial and decision of the great number of appeals depending before the said court or for the general dispatch of business, that separate sittings should be held before one or more judges thereof, it shall be competent to a single judge of the said court to hold a sitting of court on all matters within the cognizance of the Sudder Dewanny Adawlut, and to pass orders and judgments in conformity to the Regulations; and to dispose of all cases regular as well as miscellaneous (with the exception of the cases specified in paragraph 93), subject to the following provisions.—Reg. XIII, 1810, sec. vi, cl. 2; Reg. XXV, 1814, sec. vi; Reg. IX, 1831, sec. ii. cl. 1; Reg. VII, 1832, sec. xv.

91. In the trial of appeals, or on the hearing of any petition of appeal from the decisions or orders of any courts of inferior jurisdiction, if a single judge of the Sudder Dewanny Adawlut shall be of opinion that no sufficient ground has been shewn to impugn the correctness or justness of such decision or order, it shall be competent to such single judge without reference to the order of the file, to confirm the same without requiring the attendance of the opposite party, and with or without a revision of the whole proceedings, as the nature of the case may appear to require. On the other hand, if a single judge shall be of opinion that the decision or order appealed against ought to be altered or reversed, as being manifestly unjust, or at variance with some Regulation in force, or in opposition to the Hindoo or Mahomedan law, or other law applicable to the case, or

as having been passed without sufficient investigation of the merits, or as grounded on an assumption obviously erroneous or irrelevant, with reference to the points at issue, it shall likewise be competent to a single judge to issue an injunction pointing out the irregularity, illegality, or other defect apparent in the proceedings, decision, or order appealed against, and requiring that the court by which the same may have been held or passed shall revise the case, and proceed thereon in such manner as may appear conformable to justice and to the Regulations.—Reg. IX, 1831, sec. ii, cl. 2.

92. A single judge of the Sudder Dewanny, holding a sitting under this Regulation, may exercise his discretion in calling for the proceedings of the lower courts, or such parts of them as may appear necessary, and may further order a report on any points requiring explanation, prior to passing a determination on the case or matter in appeal.—Reg. IX, 1831, sec. ii, cl. 3.

93. Provided, however, that if the decree or order appealed against shall have been passed in a regular suit or appeal, after a full investigation of the merits, and the ultimate judgment to be passed on the case may rest on a mere difference of opinion as to the facts or evidence, or on a disputed or doubtful point of law, or construction of any Regulation in force, it shall not be competent to a single judge to alter or reverse such decree or order. In such cases he shall always call in two other judges of the court to sit with him, and the appeal shall be then heard by the three judges sitting together, and be decided by them without any additional voices. In such cases the decree or final order shall be signed by the three judges, if they agree together: but if one of them dissent from the view taken by the majority, by the two judges who agree together, and the signature of the third judge shall not be considered requisite, but his opinion shall be recited in the decree or final order.—Reg. IX, 1831, sec. ii, cl. 4; Act II, 1843, sec. i.

94. Provided that the preceding rule shall not be applicable to summary appeals, or to appeals in miscellaneous cases, nor shall it be held to interfere with the powers of a single judge of the Sudder Dewanny Adawlut, under paragraph 91.—Act II, 1843, sec. ii.

95. No judge of either of the Courts of Sudder Dewanny shall be disqualified from being one of three judges sitting for the hearing and decision of an appeal, by reason of his having passed the decision in the lower court, against which the appeal is made.—Act II, 1851.

96. It shall further be competent to a single judge to direct that the execution of any judgment or order passed by an inferior court, in all cases in which that measure may appear to him expedient, may be stayed until a final decision has been passed thereon.—Reg. IX, 1831, sec. ii, cl. 5.

97. Provided, however, that nothing in the foregoing paragraphs shall be understood to prohibit a single judge in any case of difficulty or importance in which he may deem it expedient and proper that the matter at issue should be decided by two or more judges of the court, from recording his own opinion thereon, and referring the case to another judge.—Reg. IX, 1831, sec. ii, cl. 6.

98. To enable the Court of Sudder Dewanny Adawlut duly to exercise the powers hereby vested in them, the several courts of subordinate jurisdiction are strictly enjoined to conform to those parts of the Regulations in force which require them to record the point or points at issue between the parties, and the grounds on which their judgment or orders may be issued.—Reg. IX, 1831, sec. ii, cl. 7.

99. Single judges of the Sudder Dewanny Adawlut holding sittings are authorized to perfect interlocutory decrees and orders; provided that it shall not be competent to a single judge to reverse or alter any decree or order of any other judge or judges of the court. Single judges may also execute all decrees and orders of the Sudder Court, ascertain and determine the sufficiency of securities, summon and examine witnesses, and determine on the admission or rejection of appeals. A single judge of the Sudder Dewanny Adawlut may receive miscellaneous petitions relative to matters depending before or decided by any Zillah or City Court in all cases wherein the Court of Sudder Dewanny Adawlut are authorized to receive such petitions, and to proceed thereon as the Sudder Dewanny Adawlut are empowered to proceed.—Reg. I, 1807, sec. iv, cls. 2 and 4; Reg. XIII, 1810, sec. iv, cls. 2 and 6, and sec. viii.

100. The powers vested in a single judge of the Sudder Dewanny Adawlut shall not be construed to prevent the court at large, or any two judges of the court, from re-examining witnesses whose depositions may have been taken before a single judge, if it appear requisite; or from examining any other witnesses in the cause, or generally from passing any order that may appear proper and consistent with the Regulations, whether in addition to, or in qualification or abrogation of, any previous order of a single judge.—Reg. I, 1807, sec. vii.

## APPEALS—SPECIAL

101. A special appeal shall lie to the Sudder Courts from any decision passed on regular appeal in any of the civil courts subordinate to the said Sudder Courts respectively, on any of the following grounds, namely.

1st. On the ground that the decision hath failed to determine all material points in difference in the cause, or hath determined the same or any of them contrary to law or usage having the force of law;

2nd. On the ground of a misconstruction of any document;

3rd. On the ground of any ambiguity in the decision affecting the merits,

4th On the ground of any substantial error or defect in procedure, or in the investigation of the case, provided such error or defect be apparent on the record, and shall have produced, or be likely to have produced, any error or defect in the decision of the case upon the merits Provided always that no such special appeal shall lie, nor shall any such decision be reversed, altered, or remanded by any of the said Sudder Courts, upon the ground that the decision of any question of fact is contrary to or not warranted by the evidence duly taken in the cause, or any probability deduced from the record.—Act. XVI, 1853, sec. iv.

102. A petition of special appeal may be presented in the Sudder Court, or it may be presented in the court in which the decision objected to was passed, for transmission to the Sudder Court. In either case the petition must be presented within three months from the date of the decision appealed against, unless the petitioner can show just and reasonable cause to the satisfaction of the Sudder Court for not having presented it within such limited period.—Act XVI, 1853, sec. v, cl. 1.

103. Every such petition of special appeal shall be accompanied by authenticated copies of the decree objected to and of the decree of the court of original jurisdiction If the appeal be presented in the court in which the decree objected to was passed, such last mentioned court shall forthwith forward the same to the Sudder Court with an endorsement thereon of the date on which it was presented, together with the copies of the decrees of the lower courts by which it was accompanied —Act XVI, 1853, sec v, cl. 2.

104. An application for an extension of the time for presenting a petition of special appeal may be made directly to the Sudder Court, or through the intervention of the lower court, at the option of the applicant —Act XVI, 1853, sec v, cl 3.

105. Every petition for a special appeal shall set forth concisely and under distinct heads the grounds of objection to the decision appealed without any argument or narrative, and such grounds shall be numbered consecutively—Act XVI, 1853, sec. vi.

106 The Sudder Courts shall cause lists of the petitions which shall be presented for the admission of special appeals to be prepared weekly, and to be affixed in the court-houses of the said Sudder Courts respectively. The said lists shall set forth the dates on which such petitions are likely to be brought on for hearing, and the said Sudder Courts shall cause extracts from the said lists to be transmitted to the courts in which the decisions on regular appeal were passed, such extracts shall be affixed in some conspicuous place in the last-mentioned courts, and extracts therefrom shall be transmitted by such courts to the courts in which the original suits were instituted, and such last-mentioned extracts shall be affixed in some conspicuous place in the said last mentioned courts The time to be fixed by the Sudder Court for the hearing of any petition shall not be less than six weeks from the date of despatch of the extracts referring to the same from the Sudder Court The date of the despatch of each extract shall be notified thereon. —Act XVI, 1853, sec. vii, cl. 1.

107 At any time within the period of one month from the date of the despatch of the extract referring to the appeal, or within such further time as the Sudder Court shall for just and reasonable cause allow for that purpose, the respondent may present a separate petition of special appeal in the Sudder Court upon any of the grounds upon which a special appeal will lie against any part of the decision of the lower court not involved in the appeal of the opposite party, provided the respondent shall not previously have presented a special appeal in the cause Such petition, however, shall not be inserted in any list to be prepared in pursuance of the preceding paragraph.—Act XVI, 1853, sec. vii, cl. 2

108 If the petition of appeal or the appeal of either party be dismissed, withdrawn or rejected, the application for appeal, or the appeal, as the case may be, of the other party, shall be heard alone according to the provisions of this Act; otherwise, all applications for special appeal and all admitted special appeals relating to the same decision, shall respectively be heard together unless the Sudder Court shall otherwise order in any case —Act XVI, 1853, sec. vii, cl. 4

109 It shall be lawful for one or more of the judges of the said Sudder Courts, respectively, to hear applications for special appeals, duly presented as aforesaid, in the presence of the appellant, or his pleader, and also of the respondent or his pleader, or such of them as shall attend, and it

shall be competent for such judge or judges to call for and peruse any document forming a part of the record of the cause: or to order the amendment of the petition of special appeal forthwith, or within such time as he or they may order, not exceeding one month from the date of such order; or to make an order of reference to the court which pronounced the decree appealed from for further information or explanation; or to pass an order for admitting the appeal for hearing or for rejecting the same; or, if it shall appear that the facts have not been sufficiently recorded, or that the case is otherwise so insufficient that the Sudder Court could not, if the appeal were admitted, pass a final decree thereon, but for no other cause, to issue an injunction, setting forth the errors, irregularities, or other defects in the decision appealed against, and remanding the same to the court by which the same shall have been passed, in order that such decision may be reviewed by the last mentioned court, and that such order or decree may be passed thereon as shall be conformable to law. Provided always that no such remand shall be ordered as aforesaid, except upon grounds whereon a special appeal will lie under this Act. If any such application shall be heard by only two judges, and they differ in opinion as to admitting the appeal for hearing, it shall be admitted.—Act XVI, 1853, section viii, cl. 1.

110. An order for admitting a special appeal for hearing shall specify, for the information of the court, the grounds upon which it was admitted. But neither the court nor the parties shall be confined to those grounds upon the hearing.—Act XVI, 1853, sec. viii, cl. 2.

111. If an order be passed for admitting the special appeal for hearing, the case shall be brought on to the file of the court to be heard and determined in due course.—Act XVI, 1853, sec. viii, cl. 3.

112. If an order for rejecting a special appeal or for remanding a case be made by one judge only, such order shall not be final, but it shall be laid before another judge of the same court, who shall hear the application for the appeal in the presence of the appellant or his pleader, and also of the respondent or his pleader, or such of them as shall attend. If the second judge be of opinion that the appeal ought to be rejected or the case remanded, he shall pass a final order to that effect; if he be of opinion that the appeal ought to be admitted, he shall pass an order for admitting the same, and the appeal shall thereupon be admitted, heard and determined in due course, in the same manner as if it had been admitted in the first instance.—Act XVI, 1853 sec. viii, cl. 4.

113. A final order for remanding a case shall not be made without notice to the respondent to enable him to appear and be heard.—Act XVI, 1853, sec. viii, cl. 5.

114. Any judge by whom an order for admitting a special appeal shall be made, may certify that in his judgment the decision of the lower court is manifestly erroneous upon any of the grounds upon which a special appeal will lie, and thereupon the appeal may be set down for hearing in a list to be called the list of Certified Special Appeals. All cases entered in such list may be called up in due course for hearing and decision according to the provisions of this Act, without regard to the general list of special appeals pending in the Sudder Court.—Act XVI, 1853, sec. viii, cl. 6.

115. If an application for a special appeal be heard by a number of judges sufficient according to the provisions of this Act to hear and determine the appeal, and it shall appear that the decision is manifestly erroneous or that the case ought to be remanded, the appeal may be heard and determined forthwith, if the respondent or respondents be present or represented by a pleader or pleaders, otherwise the court may order the case to be entered in the list of certified appeals, and the same shall be entered accordingly.—Act XVI, 1853, sec. viii, cl. 7.

116. Every order for rejecting a special appeal shall state the reason for disallowing each of the grounds set forth in the petition, and every such order of rejection may be once reviewed by the judge or judges by whom the same was passed, or by any judge or judges sitting for or instead of him or them, if they or he shall think fit to review the same. Provided that no such review shall be allowed unless application for the same be made within three months from the date of such order.—Act XVI, 1853, sec. ix, cl. 1.

117. If any such order be rescinded, or if the judges who shall review the same shall be equally divided in opinion, the appeal shall be admitted, and the case brought on to the file of the court, and heard and determined in due course.—Act XVI, 1853, sec. ix, cl. 2.

118. A petition for the review of such order shall be written on paper stamped with a Government stamp of the value of two rupees a sheet.—Act XVI, 1853, sec. ix, cl. 3.

119. When any special appeal shall be admitted, the same shall be heard and determined by three or more of the judges of the Sudder Court, and such hearing and determination shall be upon all the grounds whereon a special appeal will lie under this Act.—Act XVI, 1853, sec. x, cl. 1.

120. The Sudder Court may at any time before or at the time of the hearing of any special appeal or any application for a special appeal, allow either party to amend the grounds of objection set forth in his petition, or to add further grounds of objection thereto; or to urge and be heard by himself or his pleader in support of any objection not included in his petition, upon such terms and conditions as to postponement of the hearing, and as to the payment of costs or otherwise, as the court shall think just, to prevent the opposite party or his pleader from being taken by surprise

or otherwise. Without such leave of the court, neither party shall be allowed to urge or be heard in support of any objection not set forth in his petition. But upon hearing the application or determining the appeal, the Sudder Court shall not be confined to the grounds of objection set forth in the petition.—Act XVI, 1853, sec. x, cl. 2.

NOTE.—The following rules are not repealed by sec. i, Act XVI, 1853; but the whole of Act III, 1843, was repealed by that enactment Section ix of the last-mentioned Act reserved such then existing laws relating to Special Appeals as "were not inconsistent with the provisions of that Act." The rules here following seem to be necessary to the working of Special Appeals. Perhaps their importance did not present itself so as to lead to their being specially reserved.

121. Petitions of special appeal shall be written upon the stamped paper prescribed with reference to the value or amount of the suit, calculated according to the provisions of Regulation X, 1829, or any provisions which may be hereafter enacted for the valuation of property sued for in the civil courts. The petition shall be presented either by the party in person or by an authorised pleader of the court. In the latter case, the petition shall be signed by the pleader, who shall certify on the back of the petition that he has duly considered the grounds stated for admitting a special appeal under paragraph 101, and believes them to be well founded and sufficient.—Reg. XXVI, 1814, sec ii, cl. 3.

122. If, on a consideration of the circumstances of the case, the court shall see reason for admitting a special appeal, the appellant shall be required to furnish the prescribed security within a resonable period to be fixed by the court. When the required security shall have been duly furnished, the court will admit the special appeal, and proceed to investigate the suit under the rules prescribed in Act XVI, 1853.—Reg. XXVI, 1814, sec. ii, cl. 4.

123. If the court shall not see sufficient reason for admitting the special appeal, and shall in consequence reject the petition, the appellant shall not be entitled to receive back the amount or value of the stamp on which the petition may have been written. The courts are, however, vested with a discretionary authority in any particular instance of hardship, to refund any portion not exceeding three-fourths of the amount of such stamp duty to the party who may have paid the same, or to his legal representative.—Reg. XXVI, 1814, sec. ii, cl. 5.

124. The provisions of Regulation XXVIII, 1814, respecting appeals in *formâ pauperis* from decisions passed in original suits, shall be considered applicable to second or special appeals which may be preferred in *formâ pauperis*, and which may be hereafter deemed admissible under the rules of Act XVI, 1853.—Reg. II, 1825, sec. v.

## APPEALS—TO THE QUEEN IN COUNCIL.

125. All persons desirous of appealing from a judgment of the Court of Sudder Dewanny Adawlut to the Queen in Council, are required to present their petition of appeal to the Court of Sudder Dewanny Adawlut, either themselves or through one of the authorised pleaders of that court duly empowered to present such petition in their behalf, within six calendar months from the date on which the judgment appealed against may have been passed; under which provision, and provided also the judgment appealed against shall, exclusive of costs of suit, be to the value of 10,000 Company's rupees, the Court of Sudder Dewanny Adawlut are to admit the appeal, and proceed upon it as directed in the following sections of this Regulation, under the several restrictions therein prescribed. The value of the property constituting the subject of the judgment appealed against is to be determined according to the nature of such property, whether land, money, effects, or otherwise, according to the general rules prescribed in like cases for determining the value of the same property, when constituting the cause of action in the Sudder Dewanny Adawlut, and the several civil courts subordinate thereto.—Reg. XVI, 1797, secs. ii and iii.

126. In cases of appeal to Her Majesty in Council, the Court of Sudder Dewanny Adawlut may either order the judgment passed by them to be carried into execution, taking sufficient security from the party in whose favour the same may be passed, for the due performance of such order or decree as Her Majesty, her heirs, or successors, shall think fit to make on the appeal, or to suspend the execution of their judgment during the appeal, taking the like security, in the latter case, from the party left in possession of the property adjudged against him; but in all cases security is to be given by appellants, to the satisfaction of the Sudder Dewanny Adawlut, for the payment of all such costs as the said court may think likely to be incurred by the appeal, as well as for the performance of such order or judgment as Her Majesty, her heirs or successors, may think fit to give thereupon.—Reg. XVI, 1797, sec. iv.

127. In all cases wherein the Sudder Dewanny Adawlut may admit an appeal to the Queen in Council, they are to cause copies to be made of all the proceedings held, and judgments or orders given in the case appealed, including the whole of the evidence and documents, omitting all

formal documents, (translated into English, if the original documents be in any of the country languages), with a complete index, certifying the omitted documents, and are to transmit the same as soon as prepared, under their official seal and the signature of their register, to the Governor-General in Council, for the purpose of being forwarded by the first secure conveyance to the register of Her Majesty's Privy Council, Whitehall. No other certified copies of the record shall be transmitted to agents in England by or on behalf of the parties in the suit; and the fees and expenses incurred and paid for the preparation of such transcript shall be stated and certified upon it by the register or officer preparing the same.—Reg. XVI, 1797, sec. v, and Order in Council, 13th June, 1853, paragraph II.

128. The expense of preparing the copies of proceedings and documents required by the preceding paragraph, and of translating into the English language such of the aforesaid proceedings as may have been originally drawn out in the country languages, shall be defrayed by the parties prosecuting the appeal, and the Courts of Sudder Dewanny Adawlut are empowered and required to cause the deposit by the appellant, within the time allowed for furnishing security for costs of appeal, of such a sum as shall be sufficient to cover the expense of making the aforesaid copies.—Act II, 1844, secs. i and ii, and Order in Council, 13th June, 1853, paragraph ii.

129. *Translations of papers in appeals to the Queen in Council, how to be prepared.*)—Reg. II, 1801, sec. xix. (See "SUDDER COURT.")

130. Copies of the proceedings and judgments of the Sudder Dewanny Adawlut, in appeal to the Queen in Council, shall be furnished without expense to paupers who may be parties in such appeals, and shall be written on unstamped paper of European manufacture.—Reg. XXVIII, 1814, sec. xviii.

131. After receiving the security and the deposit required in the preceding paragraphs, and not till then, the Court of Sudder Dewanny Adawlut are to declare the appeal admitted, and to give notice thereof to the appellant and respondent respectively, that they may take measures, the one to prosecute, the other to defend the cause in appeal before Her Majesty in Privy Council, according to the established mode of proceeding in similar cases.—Reg. XVI, 1797, sec. iv, and Act II, 1844, sec. ii.

132. In case the judgment appealed from shall have been passed in pursuance of any local Regulation or Regulations enacted by the Governor-General in Council, or in case any such Regulation shall have been referred to in the judgments passed by any of the courts, wherein the cause appealed from may have been tried and decided, a copy of such Regulation or Regulations, or an extract therefrom containing all that has reference to the matter at issue, shall be annexed to the several copies of the proceedings prepared in conformity to paragraph 127, whether for delivery to the parties or for transmission to Her Majesty in Council.—Reg. XVI, 1797, sec. vi.

133. Provided always, that nothing in this Regulation is to be understood to bar the full and unqualified exercise of Her Majesty's pleasure upon all appeals to her from the decisions of the Sudder Dewanny Adawlut, either in rejecting any she may consider inadmissible under the statute respecting such appeals, or in receiving any she may judge admissible, notwithstanding the provisions made in this Regulation, which has reference to the local jurisdiction only, and particularly to that of the Sudder Dewanny Adawlut, as a necessary rule for their guidance, subject in the whole of its provisions to the ultimate determination of Her Majesty in Council.—Reg. XVI, 1797, sec. vii.

NOTE.—It is declared by the Act 8 & 9 Vict. cap. 30, sec. ii, that any appeal admitted in India after 1st January, 1846, shall be considered to be abandoned and withdrawn, unless some proceedings shall be taken IN ENGLAND in the same by one or more of the parties thereto, within two years after registration at the Council Office of the arrival of the transcript.

134. No stamp duty or institution fee shall be payable in respect of any proceeding in any appeal, or in respect of any paper or copy of any paper necessary for any appeal from any court of the East-India Company to Her Majesty in Council.—Act XI, 1839.

135. In all cases decided by a special commissioner or commissioners under the provisions of Regulation III, 1828, which, if decided by the Court of Sudder Dewanny Adawlut, would be appealable to Her Majesty the Queen in Council: a similar appeal will lie from the decision of the special commissioner or commissioners, under the same rules and restrictions as are applicable to appeals from the decisions of the aforesaid court: provided, however, that such decisions shall be immediately executed and enforced, notwithstanding the institution of the appeal: provided also, that it shall be competent to any commissioner to review any judgment passed by him, on sufficient cause being shown why a new trial should be granted—the rules in the existing Regulation regarding a review of judgment being held applicable to such cases.—Reg. III, 1828, sec. iv, cl. 5.

NOTE.—The following provisions, from paragraphs 136 to 138, are applicable to the execution of all decrees in appeals.

136. Every decree or order in appeal of Her Majesty in Council, or of any Court of Sudder Dewanny Adawlut, or of any zillah or city judge, which shall be made after the passing of this Act, and also every such decree or order in appeal which has been made before the passing of this Act, and for the execution or enforcement whereof no petition has been presented, shall be enforced and executed by the court which made the first decree or order appealed from, in the manner and according to the rules and laws applicable to the execution and enforcement of original decrees or orders made by such last-mentioned court.—Act XXV, 1852, sec. i.

137. Any person desirous of enforcing or obtaining execution of any such decree or order made in appeal as aforesaid shall present a petition for that purpose to the court which made the first decree or order appealed from, and the said petition shall be accompanied by a certified copy of the decree or order made in appeal, and sought to be enforced or executed.—Act XXV, 1852, sec. ii.

138. An appeal shall lie from any decree or order made by such last-mentioned court relating to the enforcement or execution of any such decree or order made in appeal as aforesaid in the same manner and subject to the same laws, rules, and regulations, as an appeal from an order or decree made upon a petition for the enforcement or execution of the decree or order first appealed from would have been.—Act XXV, 1852, sec. iii.

139. Nothing herein contained shall be construed so as to prevent any Court of Sudder Dewanny Adawlut from enforcing or obtaining execution of a decree or order made or passed by Her Majesty in Council, if Her Majesty in Council shall think fit to decree or order the said Court of Sudder Dewanny Adawlut to enforce or execute the same.—Act XXV, 1852, sec. iv.

140. The provisions of section viii, Act XXV, 1837, ("CONSTITUTION AND JURISDICTION OF CIVIL COURTS" paragraph 54,) shall extend to proceedings under this Act.—Act XXV, 1852, sec. v.

141. ORDERS OF HER MAJESTY IN COUNCIL.

AT THE COURT AT BUCKINGHAM PALACE,

The 13th day of June, 1853.

Present:

THE QUEEN'S MOST EXCELLENT MAJESTY.

HIS ROYAL HIGHNESS PRINCE ALBERT.

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| Lord President | Earl of Aberdeen |
| Lord Steward | Earl of Clarendon |
| Duke of Newcastle | Viscount Palmerston |
| Duke of Wellington | Mr. Herbert |
| Lord Chamberlain | Sir James Graham, Bart. |

Whereas there was this day read at the Board a report from the Right Honourable the Lords of the Judicial Committee of the Privy Council, dated the 30th May last past, humbly setting forth that the Lords of the Judicial Committee have taken into consideration the practice of the committee with a view to greater economy, despatch, and efficiency in the appellate jurisdiction of Her Majesty in Council, and that their lordships have agreed humbly to report to Her Majesty that it is expedient that certain changes should be made in the existing practice in appeals, and recommending that certain rules and regulations therein set forth should henceforth be observed, obeyed, and carried into execution, provided Her Majesty is pleased to approve the same:

Her Majesty, having taken the said report into consideration, was pleased, by and with the advice of Her Privy Council, to approve thereof, and of the Rules and Regulations set forth therein, in the words following, videlicet:—

I. That, any former usage or practice of Her Majesty's Privy Council notwithstanding, an appellant who shall succeed in obtaining a reversal or material alteration of any judgment, decree, or order appealed from, shall be entitled to recover the costs of the appeal from the respondent, except in cases in which the Lords of the Judicial Committee may think fit otherwise to direct.

II. That the registrar or other proper officer having the custody of records in any court or special jurisdiction from which an appeal is brought to Her Majesty in Council be directed to send by post, with all possible despatch, one certified copy of the transcript record in each cause to the registrar of Her Majesty's Privy Council, Whitehall; and that all such transcripts be registered in the Privy Council Office, with the date of their arrival, the names of the parties, and the date of the sentence appealed from; and that such transcript be accompanied by a correct and complete

index of all the papers, documents, and exhibits in the cause; and that the registrar of the court appealed from, or other proper officer of such court, be directed to omit from such transcript all merely formal documents, provided such omission be stated and certified in the said index of papers; and that especial care be taken not to allow any document to be set forth more than once in such transcript; and that no other certified copies of the record be transmitted to agents in England by or on behalf of the parties in the suit; and that the fees and expenses incurred and paid for the preparation of such transcript be stated and certified upon it by the registrar or other officer preparing the same.

III. That when the record of proceedings or evidence in the cause appealed has been printed or partly printed abroad, the registrar or other proper officer of the court from which the appeal is brought shall be bound to send home the same in a printed form, either wholly or so far as the same may have been printed, and that he do certify the same to be correct, on two copies, by signing his name on every printed sheet, and by affixing the seal, if any, of the court appealed from to these copies, with the sanction of the court.

And that in all cases in which the parties in appeal shall think fit to have the proceedings printed abroad, they shall be at liberty to do so, provided they cause fifty copies of the same to be printed in folio, and transmitted, at their expense, to the registrar of the Privy Council, two of which printed copies shall be certified as above by the officers of the court appealed from; and in this case no further expense for copying or printing the record will be incurred or allowed in England.

IV. That on the arrival of a written transcript of appeal at the Privy Council Office, Whitehall, the appellant, or the agent of the appellant prosecuting the same, shall be at liberty to call on the registrar of the Privy Council to cause it, or such part thereof as may be necessary for the hearing of the case, and likewise all such parts thereof as the respondent or his agent may require, to be printed by Her Majesty's printer, or by any other printer on the same terms, the appellant or his agent engaging to pay the cost of preparing a copy for the printer at a rate not exceeding one shilling per brief sheet, and likewise the cost of printing such record or appendix, and that one hundred copies of the same be struck off, whereof thirty copies are to be delivered to the agents of each side. and forty kept for the use of the Judicial Committee; and that no other fees for solicitor's copies of the transcript, or for drawing the joint appendix, be henceforth allowed, the solicitors on both sides being allowed to have access to the original papers at the Council Office, and to extract or cause to be extracted and copied such parts thereof as are necessary for the preparation of the petition of appeal, at the stationer's charge, not exceeding one shilling per brief sheet.

V. That a certain time be fixed within which it shall be the duty of the appellant or his agent to make such application for the printing of the transcript, and that such time be within the space of six calendar months from the arrival of the transcript and the registration thereof in all matters brought by appeal from Her Majesty's colonies and plantations east of the Cape of Good Hope, or from the territories of the East India Company, and within the space of three months in all matters brought by appeal from any other part of Her Majesty's dominions abroad; and that in default of the appellant or his agent taking effectual steps for the prosecution of the appeal within such time or times respectively, the appeal shall stand dismissed without further order, and that a report of the same be made to the Judicial Committee by the registrar of the Privy Council at their lordships' next sitting.

VI. That whenever it shall be found that the decision of a matter on appeal is likely to turn exclusively on a question of law, the agents of the parties, with the sanction of the registrar of the Privy Council, may submit such question of law to the Lords of the Judicial Committee in the form of a special case, and print such parts only of the transcript as may be necessary for the discussion of the same; provided that nothing herein contained shall in any way bar or prevent the Lords of the Judicial Committee from ordering the full discussion of the whole case, if they shall so think fit; and that in order to promote such arrangements and simplification of the matter in dispute, the registrar of the Privy Council may call the agents of the parties before him, and having heard them, and examined the transcript, may report to the committee as to the nature of the proceedings.

And Her Majesty is further pleased to order, and it is hereby ordered, that the foregoing Rules and Regulations be punctually observed, obeyed, and carried into execution in all appeals or petitions and complaints in the nature of appeals brought to Her Majesty, or to her heirs and successors in council, from Her Majesty's colonies and plantations abroad, and from the Channel Islands or the Isle of Man, and from the territories of the East India Company, whether the same be from courts of justice or from special jurisdiction, other than appeals from Her Majesty's Courts of Vice-Admiralty, to which the said rules are not to be applied.

Whereof the judges and officers of Her Majesty's courts of justice abroad, and the judges and officers of the superior courts of the East India Company, and all other persons whom it may concern, are to take notice, and govern themselves accordingly.

W. L. Bathurst.

ORDER IN COUNCIL *of the 10th April, 1838, made pursuant to 3 and 4 Wm. IV, c. 41, for regulating Appeals from the Supreme and Sudder Dewanny Courts in the East Indies, Prince of Wales Island, Malacca, and Singapore.*

Whereas, by an Act passed in the fourth year of the reign of His late Majesty King William the Fourth, intituled "An Act for the better Administration of Justice in His Majesty's Privy Council," it is amongst other things enacted, that "it shall be lawful for His Majesty in Council from time to time to make any such rules and orders as may be thought fit, for the regulating the mode, form, and time of appeal to be made from the decisions of the Courts of Sudder Dewanny Adawlut, or any other Courts of Judicature, in India or elsewhere, to the eastward of the Cape of Good Hope (from the decisions of which an appeal lies to His Majesty in Council), and in like manner from time to time to make such other regulations for the preventing delays in the making or hearing such appeals, and as to the expenses attending the said appeals, and as to the amount or value of property in respect of which any such appeal may be made:" and whereas His said late Majesty did, by his Order in Council, on the 16th day of January, 1836, approve certain rules and orders for regulating the mode, form, and time of appeal from the decisions of the said Courts of Sudder Dewanny Adawlut, and also certain regulations for the preventing delays in the making of hearing of such appeals, and as to the expenses attending such appeals; and the said rules, and orders, and regulations were set forth in certain schedules, A and B, to and by the said Order in Council of the 16th of January annexed and approved: and whereas His said late Majesty did, by his further Order in Council made on the 10th day of August, 1836, alter and amend the said Schedule B, by cancelling the rule No. 5 of the said Schedule B so approved as aforesaid, and ordering that, in lieu of the said fifth rule thereof, a certain other rule in such last-mentioned order set forth should be substituted:* and whereas the Queen's Most Excellent Majesty in Council hath deemed it expedient to cancel and rescind all the said rules, orders, and regulations, and to make and substitute others in lieu thereof:—

Her Majesty is therefore pleased, by and with the advice of her Privy Council, to cancel and rescind all the said rules, orders, and regulations in the said recited Orders in Council of the 16th day of January, 1836, and the 10th day of August, 1836, respectively contained, and thereby or by either of them approved, and to approve of the several rules, orders, and regulations contained in the schedule hereunder written or hereunto annexed, and to order, as it is hereby ordered, that the same be respectively observed by Her Majesty's Supreme Courts of Judicature at Fort William in Bengal, Fort St. George, and Bombay respectively, by the Court of Judicature of Prince of Wales Island, Singapore, and Malacca, and by the said several Courts of Sudder Dewanny Adawlut, and all other Courts of Judicature in the territories under the government of the East India Company, and by all persons whom it shall or may concern. Whereof the Governor-General and the Council of India, the Governor of Fort William in Bengal, the Governor in Council at Fort St. George, the Governor in Council at Bombay, the Governor of Agra, the Chief Justice and the Judges of Her Majesty's Supreme Court of Judicature at Fort William aforesaid, the Chief Justice and Judges of Her Majesty's Supreme Court of Judicature at Fort St. George, the Chief Justice and Judges of Her Majesty's Supreme Court of Judicature at Bombay, the Court of Judicature of Prince of Wales Island, Singapore, and Malacca, the Judges of the several Courts of Sudder Dewanny Adawlut in the East Indies, and the Judges of all other Courts of Judicature in the territories under the government of the East India Company, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

(Signed) C. C. GREVILLE.

THE SCHEDULE ABOVE REFERRED TO.

1. That from and after the 31st day of December next, no appeal to Her Majesty, her heirs and successors, in Council, shall be allowed by any of Her Majesty's Supreme Courts of Judicature at Fort William in Bengal, Fort St. George, Bombay, or the Court of Judicature of Prince of Wales Island, Singapore, and Malacca, or by any of the Courts of Sudder Dewanny Adawlut, or by any other courts of judicature in the territories under the government of the East India Company, unless the petition for that purpose be presented within six calendar months from the day of the date of the judgment, decree, or decretal order complained of, and unless the value of the matter in dispute in such appeal shall amount to the sum of 10,000 Company's rupees at least; and that, from and after the said 31st day of December next, the limitation of 5,000*l.* sterling heretofore existing in respect of appeals from the Presidency of Fort William in Bengal shall wholly cease and determine.

*. The rules contained in these orders were never acted on

2. That in all cases in which any of such courts shall admit an appeal to Her Majesty, her heirs and successors in Council, it shall specially certify on the proceedings that the value of the matter in dispute in such appeal amounts to the sum of 10,000 Company's rupees or upwards, which certificate shall be deemed conclusive of the fact, and not be liable to be questioned on such appeal by any party to the suit appealed.

3. Provided nevertheless, that nothing herein contained shall extend, or be construed to extend, to take away, diminish, or derogate from the undoubted power and authority of Her Majesty, her heirs and successors, in Council, upon the petition at any time of any party aggrieved by any judgment, decree, or decretal order of any of the aforesaid courts, to admit an appeal therefrom upon such other terms, and upon and subject to such other limitations, restrictions, and regulations as Her Majesty, her heirs and successors, shall in any such special case think fit to prescribe.

4. That on the arrival of the transcript of proceedings in an appeal to Her Majesty, her heirs and successors in Council, from any of the said Courts of Sudder Dewanny Adawlut, or any other courts in the East Indies constituted by the East India Company, or any of their governments from which an appeal lies to Her Majesty in Council, such officer of the East India Company as the Court of Directors of the said Company shall from time to time appoint, shall forthwith give notice to the clerk of the Council thereof, stating at the same time the names of the parties to the appeal, and the date of the decree appealed from, and that such notice shall be duly registered in the Council Office.

5. That the said transcripts of proceedings shall be kept at the East India House, or at such other convenient place within the cities of London or Westminster, as the said Court of Directors shall from time to time appoint; the agents respectively conducting and defending such appeals in this country being at liberty to take all the necessary copies and extracts from the said proceedings, and to examine the same from time to time; and it shall be the duty of such officer, by himself or his sufficient deputy, to produce the original transcripts before the Judicial Committee, upon the hearing of such appeal, upon due notice for that purpose previously given, and upon all other occasions when thereunto required by the Privy Council or the Judicial Committee.

6. That in default of the petition of appeal of the appellants being lodged in the Council Office within three calendar months from the registration of the arrival of such transcripts, or in default of the appellant's case being carried in within one year from the time of such registration, the respondent shall be entitled in either case to move to dismiss the appeal for want of prosecution; and in the event of the respondent's not bringing in his case within one year from the time of such registration, the appellant shall be entitled to apply to have the case heard *ex parte*.

(Signed) C. C. GREVILLE.

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## APPEALS—SUMMARY.

142. The Zillah Courts are empowered to receive any petitions respecting suits or matters that may be depending, or have been decided in any lower court within their respective jurisdictions; and provided it shall be proved to their satisfaction that the petition was presented, or that due means were used to effect its being presented to the judge, and that he refused or omitted to receive it and proceed on it, or in the last-mentioned case, that undue means were used by any of the officers of the court to prevent the petition being presented, the court are empowered to issue a precept, under the seal of the court, commanding the judge to receive the petition, and to proceed respecting it according to the Regulations.—Reg. II, 1798, sec. vi.

143. The Sudder Dewanny Adawlut is empowered to receive any original suit or complaint which may be cognizable in any Zillah or City Court, and to command the judge of such court, by a precept under the seal of the court, and attested by the register, to receive the suit or complaint, and to proceed to hear and determine it, provided proof shall be previously made to their satisfaction that the judge refused or omitted to proceed in it. If the plaintiff shall refuse or neglect to proceed in the suit or complaint for the period of six weeks after the order of the Sudder Dewanny Adawlut may be received by the Zillah or City Court, and notified to the complainant, the judge is authorized to dismiss it, notwithstanding the order of the Sudder Dewanny Adawlut. In such cases the judge within one week after the dismission of the suit or complaint, is to certify to the Sudder Dewanny Adawlut, under his hand and the seal of the court, that the suit or complaint has been dismissed, and the grounds of the dismission.—Reg. VI, 1793, sec. iv.

144. It shall be competent to the Sudder Dewanny Adawlut to receive a summary appeal from the orders or decrees of the courts, in all cases in which the latter may have refused to admit an original suit or appeal regularly cognizable by them; or having admitted such suit or appeal, may have dismissed it on the ground of delay, informality or other default, without an investigation of the merits of the case.—Reg. XXVI, 1814, sec. iii, cl. 2.

145. On the same principle, it shall be competent to the zillah or city judges to receive a summary appeal from the orders or decrees of a sudder ameen, in cases in which the sudder ameen may have dismissed, on the ground of some default, and without an investigation of the merits of the case, any original suit or appeal regularly referred to them.—Reg. XXVI, 1814, sec. iii, cl. 4.

146. It shall be competent to the zillah and city judges to receive a summary appeal from the orders or decrees of the moonsiffs subordinate to them, in cases in which such moonsiffs may have refused to admit any suit regularly cognizable by them, or may have dismissed, on the ground of delay, informality, or other default, without an investigation of the merits of the case, any such suit which they may have admitted, or any suit regularly referred to them.—Act XXII, 1838, sec. i.

147. The provisions contained in paragraphs 149 and 150 apply to the summary appeals preferred under the authority of this Act.—Act XXII, 1838, sec. ii.

148. It shall be competent to the zillah or city judge to receive a summary appeal from the orders of any principal sudder ameen or sudder ameen, rejecting any original suit cognizable by him, and that all rules applicable to summary appeals from orders dismissing original suits on the ground of any default shall be applicable to the summary appeals given by this Act.—Act IX, 1844, sec. iv.

149. In all the preceding cases, the summary appeal shall be preferred within the same limited period as is prescribed for the admission of regular appeals, and subject to the provisions contained in the following paragraphs.—Reg. XXVI, 1814, sec. iii, cl. 5.

150. Whenever a party may be desirous of preferring a summary appeal in the cases above-mentioned, he shall appear, either in person or by a vakeel duly authorized, before the court, which, under the preceding rules, may be competent to receive such appeal; and shall present a petition, written on the stamped paper prescribed by Schedule B, Reg. X, 1829, and accompanied by an attested copy of the order or decree passed in the case.—Reg. XXVI, 1814, sec. iii, cl. 6.

151. In matters which the Sudder Dewanny Adawlut may be empowered by any Regulation to try in the first instance (excepting as to hearing witnesses and receiving evidence), the court is to proceed in the same manner, and with the like powers and authority, and subject to the same restrictions, limitations, and exceptions, as are prescribed to the Zillah and City Courts.—Reg. VI, 1793, sec. vii.

152. The party presenting such petition shall not be liable to the payment of the stamp duty substituted for the institution fee, nor shall he be required to furnish any security, except such as may be eventually necessary, under the Regulations in force, for staying the execution of the decree from which the appeal may be preferred.—Reg. XXVI, 1814, sec. iii. cl. 7.

153. It shall not be requisite to give any notice to the respondent, or to require his attendance on such summary appeal being preferred, unless in any particular instance the court may deem it proper to adopt that measure; nor shall any pleadings or proceedings be holden on such summary appeal, excepting such as may suffice to determine whether the suit was or was not rejected or dismissed by the lower court on sufficient grounds, and in conformity with the Regulations.—Reg. XXVI, 1814, sec. iii, cl. 8.

154. If upon such summary proceedings it shall appear to the court that the suit was rejected in the first instance, or after being admitted was dismissed without an investigation of the merits upon insufficient grounds, or in opposition to the Regulations, it shall be competent to the Sudder Dewanny Adawlut, and to the zillah or city judges respectively, to direct the lower court or officer, from whose order or decree the petition of appeal may have been presented, to receive the original suit or appeal, or to revive it if it shall have been received and dismissed, and to try and determine such cause on its merits, according to the Regulations.—Reg. XXVI, 1814, sec. iii. cl. 9.

155. If, on the contrary, such summary appeal shall be found to be groundless and litigious, the Sudder Dewanny Adawlut and the zillah or city judges, are respectively authorized and required to reject the petition for a summary appeal, and to impose such fine on the litigious appellant as may appear to be in each instance proportionable to the condition of the party and to the circumstances of the case; provided that such fine shall in no case exceed the amount of the stamp duty which would have been payable by the appellant on the institution of such case as a regular suit or appeal. All orders imposing fines, or rejecting petitions of summary appeal, which may be passed under the preceding paragraph by the Sudder Dewanny Adawlut, or by the zillah or city judges, shall be final and conclusive.—Reg. XXVI, 1814, sec. iii, cl. 10.

156. The above provisions, regarding the admission and hearing of summary appeals, shall

be held applicable to original suits and appeals tried by principal sudder ameens.—Reg. V, 1831, sec. xix, cl. 1.

157. Summary decisions passed under section v, Regulation VII, 1825 ("PROCEDURE ON THE TRIAL OF ORIGINAL SUITS," paragraph 149), shall be open to a summary appeal under the general rules for such appeals.—Reg. VII, 1825, sec. v, cl. 2.

158. No appeal shall lie against the decision passed in accordance with the provisions of Act XXIX, 1841 (paragraphs 39 to 41), other than a summary appeal on the fact of default.—Act XXIX, 1841, sec. iii.

NOTE.—For procedure in pauper appeals, see "PROCEDURE ON THE TRIAL OF ORIGINAL SUITS," paragraphs 313 to 325.

# CIVIL JUDICATURE.

## RULES COMMON TO COURTS OF ORIGINAL AND APPELLATE JURISDICTION.

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| 1793. | III. | x., xi. | 15 | |
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| | IV. | viii. | | Incorporated with sec. xii, Reg. II, 1806 |
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# CIVIL JUDICATURE.

## RULES COMMON TO COURTS OF ORIGINAL AND APPELLATE JURISDICTION

### PROCEDURE ON TRIALS.

NOTE.—In the following arrangement, such rules, having effect both in courts of original and appellate jurisdiction, as have been entered in the preceding portions, are here only noted in abstract with reference to the places where they will be found *in extenso*.

NOTE.—It was enacted by sec. xxvii, Reg. V, 1831, that whenever the Governor-General in Council should introduce the provisions of that Regulation into any Zillah, the authority and jurisdiction of the Provincial Court, in original suits and appeals should cease. It was further declared in the preamble to Reg. II of 1833, as a consequence, that whenever that Regulation should have been extended to all the districts of any division, the further maintenance of the Provincial Court would only be required for the purpose of disposing of the arrears of business pending before it.

The Provincial Courts having now been all abolished, and the system established by Reg. V, 1831, generally introduced, the rules for the distribution of the business of the Provincial Courts to the Zillah Courts, and to the Sudder Dewanny Adawlut respectively, may be considered as *formally* disposed of, and the provision respecting the distribution as *extinct*, but as the principles involved in those provisions must continue to govern the assignment of many duties to the one or the other of those jurisdictions, it seemed desirable to retain the rules referred to, and to give them in this place.

1. ALL original suits, all miscellaneous business arising out of original suits not of the nature of appeals, and generally all matters connected with its functions as a court of primary jurisdiction, which may be pending in any Provincial Court, shall be transferred to the files of the several Zillah or City Courts, in which, under the provisions of section viii, Regulation III, 1793, the suit would be regularly cognizable, provided that the provisions of Regulation V, 1831, shall have been extended to such Zillah or City Court. The Zillah or City Courts to which under this provision any suits may be transferred, shall proceed with them in all respects as though they had been originally instituted before them under clause 3, section xxvii, Regulation V, 1831.—Reg. II, 1833, sec. iii, cl. 1.

2. All precepts or orders which may have been issued to the Provincial Court by the Court of Sudder Dewanny Adawlut, regarding any suit or matter pending before the Superior Court, shall also be transferred to the Zillah or City Court to which the suit or matter has reference, whether the provisions of Regulation V, 1831, may have been extended to such Zillah or City Court, or not, and the court receiving such order shall carry it into effect in the same manner as if it had been addressed to itself.—Reg. II, 1833, sec. iii, cl. 2.

3. All appeals, regular, special, or summary, as well as all petitions for the admission of special appeals, petitions for review of judgment, or other miscellaneous business belonging to its jurisdiction as an Appellate Court, which may be pending before the Provincial Court on the date of its abolition, shall be transferred to the file of the Court of Sudder Dewanny Adawlut; and the judges of the Court of Sudder Dewanny Adawlut are hereby empowered and required to dispose of them, under the general powers with which they are vested, in the same manner as though they had been regularly cognizable by, and referred to or instituted before them. All appeals that may be so pending before a Provincial Court on the date of its abolition, of whatever amount, or from whatever authority preferred, are hereby declared cognizable by the Court of Sudder Dewanny Adawlut, anything in the existing Regulations to the contrary notwithstanding.—Reg. II, 1833, sec. v.

4. *Examination of Evidence.*—Reg. XXVI, 1814, sec. x; Act XIX, 1853. (See "PROCEDURE, ON THE TRIAL OF ORIGINAL SUITS," paragraphs 20 to 67.)

5. No person shall by any conviction for any offence whatever be incompetent to be a witness in any stage of any civil cause before any court in the territories of the East India Company.—Act XIX, 1837.

6. *Examination of absent witnesses.*—Act VII, 1841. (See "PROCEDURE ON THE TRIAL OF ORIGINAL SUITS," paragraphs 68 to 74.)

7. The civil courts are prohibited corresponding, by letter, with parties in suits or process, or matters depending before them or coming within their cognizance. If a party in a suit, or any person amenable to the jurisdiction of the court, shall have any matter to represent to the court,

he is either to appear in the court in person, and represent the matter in writing, or to make the representation in writing through an authorised vakeel. The courts are to pass whatever order, upon the representation, may appear to them proper consistently with the Regulations, and to cause a copy of the order to be delivered to the person making the representation, or to his vakeel, under the seal of the court.—Reg. III, 1793, sec. xix; Reg. V, 1793, sec. ix; Reg. VI, 1793, sec. vi.

8. *Rules regarding Decrees.*—Reg. II, 1805, sec. ix. (See "PROCEDURE ON THE TRIAL OF ORIGINAL SUITS," paragraph 101.)

9. *Execution of Decree.*—Reg. XXVI, 1814, sec. xv, cl. 4; Reg. II. 1806, sec. xi. (See "PROCEDURE ON THE TRIAL OF ORIGINAL SUITS," paragraphs 104, and 125.)

10. *Sales in execution of Decree.*—Reg. VII, 1825; Act IV, 1846; Act XXV, 1850. (See "PROCEDURE ON THE TRIAL OF ORIGINAL SUITS," paragraphs 131 to 135.)

11. *Review of Judgment.*—Reg. XXVI, 1814, sec. iv; Reg. II, 1825. (See "PROCEDURE ON THE TRIAL OF ORIGINAL SUITS," paragraphs 172, 174 to 180.)

12. *Law to administer in cases of succession.*—Reg. III, 1793, sec. xiii; Reg. IV, 1793, sec. xv; Reg. II, 1798, sec. iv; Reg. VII, 1832, secs. viii and ix; Act XXI, 1850. (See "PROCEDURE ON THE TRIAL OF ORIGINAL SUITS," paragraphs 229 to 234.)

13. *Employment of Natives as assessors, &c.*—Reg. VI, 1832, secs. ii and iii. (See "PROCEDURE ON THE TRIAL OF ORIGINAL SUITS," paragraphs 250 to 255.)

14. *Affirmations substituted for oaths of Hindoos and Mahomedans.*—Act V, 1840. (See "PROCEDURE ON THE TRIAL OF ORIGINAL SUITS," paragraphs 256 to 259.)

15. *Cases in which Government or its officers are parties.*—Reg. III, 1793, secs. ix and x; Reg. VII, 1806, sec. viii; Reg. II, 1814; Reg. XIII, 1829, sec. v; Reg. XI, 1822, sec. xxxviii Act XVIII, 1850. (See "PROCEDURE ON THE TRIAL OF ORIGINAL SUITS," paragraphs 260 to 269.)

16. *Cases in which Native Princes are parties.*—Reg. IV, 1812. (See "PROCEDURE ON THE TRIAL OF ORIGINAL SUITS," paragraphs 270 to 273.)

17. *Cases in which inhabitants of Foreign territories are parties.*—Reg. XIV, 1829. (See "PROCEDURE ON THE TRIAL OF ORIGINAL SUITS," paragraphs 288 to 290.)

18. *No decisions of the civil courts to be altered on account of irregularity.*—Act IX, 1854. (See "PROCEDURE ON THE TRIAL OF APPEALS," paragraph 36.)

19. *Consequences of non-prosecution and default.*—Act XXIX, 1841; Act XVII, 1847. (See "PROCEDURE ON THE TRIAL OF APPEALS," paragraphs 39 to 41, and 44.)

20. *Powers of the Sudder Dewanny Adawlut.*—Reg. VI, 1793, secs. vii and xx; Reg. II, 1798, sec. vii; Reg. II, 1801, secs. vi and xiii; Reg. I, 1807, sec. iv, cl. 2, and sec. vii; Reg. XIII, 1810, sec. vi, cl. 2 and sec. viii; Reg. XXV, 1814, sec. v, cl. 1, and sec. xviii; Reg. VI, 1831, sec. vii; Reg. IX, 1831, secs. ix and x. (See "PROCEDURE ON THE TRIAL OF APPEALS," paragraphs 46 to 49, 86 to 90, 99, 100.)

## ALLOWANCES TO CIVIL PRISONERS.

NOTE.—The following rule should have followed those respecting Execution of Decree in Original Suits, and been referred to only in this place.

21. No process of arrest shall issue from a civil court, unless the party applying for the same and entitled thereto, shall deposit in court (independent of the charge for executing the process) a sum sufficient to provide for the subsistence of the individual against whom the process may issue, for a period of thirty days from the date of his commitment to gaol, in execution thereof. On the expiration of thirty days after such commitment, a further deposit shall be made in advance for the next ensuing thirty days, and so on till the defendant's discharge. The amount of deposit shall be fixed by the judge at the time of issuing the process of arrest, subject to future revision, on sufficient grounds shown, and shall be regulated according to the rules heretofore in force; that is, the allowance is not to exceed four annas, nor to be less than one anna per diem, consideration being had to the rank and situation in life of the defendant, and the circumstances of the plaintiff. Provided, however, that if any special circumstances should exist for increasing the rate beyond four annas, it shall be competent to the Sudder Dewanny Adawlut, on a report from the judge, or other sufficient information before them, to order such increase as may appear to that court to be just and proper, not exceeding in any instance one rupee per diem.—Reg. VI, 1830, sec. ii.

22. The allowance required under the foregoing rules is to be made payable as heretofore to the nazir of the court, who is to give monthly receipts for it to the plaintiff, dated on the day on which the money may be paid. If the plaintiff shall neglect or refuse to pay the prescribed allowance on or before the day on which it may become due, the nazir is immediately to report the same in writing, under his signature, to the judge, who is forthwith to order the defendant's

discharge; and such defendant shall not again be liable to personal arrest and confinement on the same matter, at the instance of the same party, unless it be proved to the satisfaction of the court that he has been guilty of dishonest conduct in the fraudulent concealment or transfer of any property that would otherwise have been available for the satisfaction of the decree or other demand on account of which he may have been originally confined.—Reg. VI, 1830, sec. iii.

23. The amount paid for the subsistence of persons in confinement under judgments of the civil courts is to be repaid by the party confined on his release, in common with the reimbursement of other costs of suit and process, when any property may be forthcoming from which the amount can be levied. Plaintiffs are not to be required to pay any allowance to defendants who may be committed to custody for disobedience to an order of the court. But when no property can be pointed out for the reimbursement of the subsistence money paid to prisoners, they shall not be detained in confinement for the repayment of such money only.—Reg. IV, 1793, sec. viii; and Reg. II, 1806, sec. xii.

24. In the event of any future alterations becoming necessary in the rules relating to the subsistence-allowance of debtors confined in the civil gaols, it shall be competent to the Court of Sudder Dewanny Adawlut to direct the same, subject to the approval of the Governor-General in Council, without the necessity of a new Regulation being passed for that purpose.—Reg. VI, 1830, sec. v.

## INTEREST.

### *General Rules.*

25. If the cause of action shall have arisen on or after the first day of January, one thousand seven hundred and ninety-three, the courts are not to decree any interest on any sum whatever, above the rate of twelve per cent. per annum.—Reg. XV, 1793, sec. iv.

26. Upon all debts or sums certain payable at a certain time or otherwise, the court before which such debts or sums may be recovered, may, if it shall think fit, allow interest to the creditor at a rate not exceeding the current rate of interest from the time when such debts or sums certain were payable, if such debts or sums be payable by virtue of some written instrument at a certain time, or if payable otherwise, then from the time when demand of payment shall have been made in writing, so as such demand shall give notice to the debtor that interest will be claimed from the date of such demand until the term of payment; provided, that interest shall be payable in all cases in which it is now payable by law.—Act XXXII, 1839.

27. Where a lower rate of interest than the authorized rates may have been stipulated between the parties, no higher rate of interest than the rates so stipulated is to be decreed.—Reg. XV, 1793, sec. v; Reg. XXXIV, 1803, sec. iv.

28. If the interest on any debt, calculating according to the rates allowed by this Regulation, shall have accumulated so as to exceed the principal, the courts are not, in any case whatever (excepting the cases specified in paragraph 34), to decree a greater sum for interest than the amount of such principal.—Reg. XV, 1793, sec. vi; Reg. XXXIV, 1803, sec. v.

29. The courts are not to decree any compound interest arising from intermediate adjustments of accounts. This rule, however, is not to extend to cases in which accounts between the parties shall have been adjusted, and the former bonds or agreements cancelled, and new bonds or agreements taken for the aggregate amount of the principal, and the legal interest remaining due upon the adjustment consolidated into principal.—Reg. XV, 1793, sec. vii; Reg. XXXIV, 1803, sec. vi.

30. The courts are not to decree any interest whatever, in any case, where the bond or instrument given for the security and evidence of the debt shall have been granted on or subsequent to the following dates, and shall specify a higher rate of interest than is authorized by this Regulation to have been given and received subsequent to these dates,

Lower Provinces, 28th March, 1780;
Cuttack, 14th October, 1803;
Ceded Provinces, 1st January, 1804;
Conquered Provinces, 1st January, 1806;
Benares, 1st January, 1807.

—Reg. XV, 1793, sec. viii; Reg. XXXIV, 1803, sec. vii; Reg. XII, 1805, sec. ix, cl. 4; Reg. VIII, 1805, sec. xxiii, cl. 2; Reg. XVII, 1806, secs. ii and iv.

31. Nor to decree any interest whatsoever in favour of the plaintiff, in any case where the cause of action shall have arisen on or subsequent to the dates specified in the preceding paragraph, where a greater interest than is authorized by this Regulation shall have been received, or stipulated to be received, if it be proved that any attempt has been made to elude the rules prescribed in it, by any deduction from the loan, or by any device or means whatever; nor to give

any other judgment, but for the dismission of the suit with costs to be paid by the plaintiff.—Reg. XV, 1793, sec. ix; Reg. XXXIV, 1803, sec. viii; Reg. XIV, 1805, sec. ix, cl. 5.

32. In cases of mortgages of real property, executed prior to the dates specified above, in which the mortgagee may have had the usufruct of the mortgaged property, whether he shall have held it in his own possession or not, the usufruct is to be allowed to the mortgagee in lieu of interest, agreeably to the former custom of the country (provided it shall have been so stipulated between the parties), until the above-mentioned dates, subsequent to which the same interest is to be allowed on such mortgage bonds, and also on all bonds for the mortgage of real property, which have been entered into on or since those dates, or that may be hereafter executed, as is allowed on other bonds which have been or may be granted on or posterior to such dates, and no more; and all such mortgages are to be considered as virtually and in effect cancelled and redeemed, whenever the principal sum, with the simple interest due upon it, shall have been realized from the usufruct of the mortgaged property subsequent to the dates specified above, or otherwise liquidated by the mortgagor.—Reg. XV, 1793, sec. x; Reg. XXXIV, 1803, sec. ix; Reg. XIV, 1805, sec. ix, cl. 6.

33. For the adjustment of the accounts, in the cases of mortgages specified in the preceding paragraph, where the mortgagee shall have had the usufruct of the mortgaged property, the mortgagee is to be required to deliver in the accounts of his gross receipts from the property mortgaged, and also of his expenditures for the management or preservation of it. The mortgagee is to swear, or to subscribe a solemn declaration that the accounts which he may deliver in are true and authentic. The mortgagor is to be permitted to examine the accounts, and after hearing any objections he may have to offer, or any evidence that either party may have to adduce respecting them, the court is to adjust the account.—Reg. XV, 1793, sec. xi; Reg. XXXIV, 1803, sec. x.

34. The rules contained in the preceding paragraphs are not to be considered to extend to respondentia loans or policies of insurance, the interest on which is to be regulated by the terms of the deeds, and the laws and usages which prevail respecting such transactions.—Reg. XV, 1793, sec. xii; Reg. XXXIV, 1803, sec. xi.

35. To prevent the encouragement of litigious appeals, the courts of appeal, in all cases wherein they may confirm the decree of a lower court, are to adjudge interest, at the rate of one per cent. per mensem, on all sums receivable by the respondent under the decree passed in his favour, from the date of such decree, and are authorized to punish appeals which may appear to them litigious by a fine to Government, proportionate to the condition of the party and the circumstances of the case.—Reg. XIII, 1796, sec. iii.

### *Ceded Provinces.*

36. If the cause of action shall have arisen on or subsequent to the tenth day of November, one thousand eight hundred and one, the courts are not to decree interest on any sum whatever, above the rate of twelve per cent. per annum.—Reg. XXXIV, 1803, sec. iii.

### *Conquered Provinces.*

37. The 30th of December, 1803, shall be the date to be adopted in the zillahs of Allyghur, Agra, and the northern and southern division of the zillah of Saharunpore; and the 16th of December, 1803, shall be the date to be adopted in the zillah of Bundlecund, in lieu of the date specified in sections ii, iii, and ix, Regulation XXXIV, 1803.—Reg. VIII, 1805, sec. xxiii, cl. 2.

### *Cuttack.*

38. The following rules shall be observed in the zillah of Cuttack, including the pergunnahs of Puttespore, Kummardichour, and Bograe, respecting the payment of interest on money:

If the cause of action shall have arisen on or subsequently to the 14th of October, 1803, the courts are not to decree interest on any sum whatever above the rate of twelve per cent. per annum.—Reg. XIV, 1805, sec. ix, cls. 1 and 3.

### *Benares.*

39. The provisions contained in the several sections of Regulation XV, 1793, are hereby declared to extend to the province of Benares, from the commencement of the ensuing year 1807, A.C., corresponding with the 19th Poos of the Bengal year 1213, and 7th Poos of the Fussily year 1214, subject to the following modifications.—Reg. XVII, 1806, sec. ii.

40. If the cause of action shall have arisen before the period stated in the preceding paragraph, the courts of civil judicature are to decree whatever rate of interest may have been voluntarily stipulated; or if interest be payable in any case wherein a specific rate may not have been stipulated, according to the law and usage of the province; in conformity with the spirit of section ix, Regulation VII, 1795, which directs, with respect to bills of exchange, receipts, or notes

of hand, that the custom of the country is to be abided by, and with respect to dealings and money transactions amongst mahajins and shroffs, that the established customs observed and enforced amongst them are to be adhered to by the courts in their inquiries and decisions.—Reg. XVII, 1806, sec. iii.

41. If the cause of action shall arise after the period specified in paragraph 39, the courts are not to decree any interest above the rate of one per cent. per mensem, or twelve per cent. per annum.—Reg. XVII, 1806, sec. iv.

42. The forfeiture of interest for stipulation of a higher rate than what is authorized, enacted by paragraph 30, and the forfeiture of principal and interest, in cases of attempts to elude the prescribed rules, by deductions from the principal or other devices, provided against by paragraph 31, shall not be considered applicable to any loans actually and *bonâ fide* contracted, or to any bonds or other instruments voluntarily given for the evidence and security of such loans, previously to the period stated in paragraph 39.—Reg. XVII, 1806, sec. v.

43. The rule contained in paragraph 32, for the redemption of mortgaged property, whenever the principal sum lent and the simple interest due thereupon shall have been realized from the usufruct, is to be considered in force throughout the province of Benares from the commencement of the Fussily year 1214 (1806-7); but shall not be applied retrospectively, in opposition to any subsisting engagement voluntarily contracted before the period fixed for the operation of this Regulation.—Reg. XVII, 1806, sec. vi.

### CONDITIONAL SALES.

44. It has been long a prevalent practice in the province of Behar to borrow money on the mortgage and conditional sale of landed property, under a stipulation that if the sum borrowed be not repaid (with or without interest) by a fixed period the sale shall become absolute. This species of transfer has, in the above province, been usually denominated bye-bil-wuffa; and the same transaction is common in Bengal, under an instrument termed kut-cubbaleh. It doubtless exists also, under deeds of the above or similar denominations, in Orissa and Benares: and since the promulgation of the rules respecting interest contained in Regulation XV, 1793, it has become more prevalent, particularly in the province of Behar, wherein instances have occurred in which persons lending money on bye-bil-wuffa, in order to render the sale absolute, and thereby possess themselves of the landed property of the borrower, have denied the tender, or evaded receiving payment of the money due to them within the period limited for the discharge of it. In such cases, the proof of the tender falls on the borrower; and if he fail in the proof of it for want of legal evidence, he is liable to lose his estate. It is necessary, therefore, for the security of the borrower, in such transactions, that he should have the means of establishing before a court of judicature his having tendered, or being ready to pay, within the stipulated period, the amount due from him to the lender; who, if he mean to act fairly, will also derive a benefit from a clear rule being laid down, whereby it may be readily ascertained whether the borrower was willing to redeem his property by the payment of the money lent upon it within the period agreed upon between the parties, or whether, from his having omitted to perform the conditions of such redemption, the sale is become absolute, and the property included therein finally transferred to the lender. For the above purpose, and for the prevention of other abuses in the transactions referred to, the Governor-General in Council has passed the following rules, to be considered in force in the provinces of Bengal, Behar, Orissa, and Benares, from the date of the receipt of this Regulation by the several courts respectively.—Reg. I, 1798, sec. i.

45. In all instances of the loan of money on bye-bil-wuffa, or on the conditional sale of landed property, as explained in the preceding paragraph, however denominated, the borrower, who may be desirous to redeem his land by the payment of the money lent upon it, with any interest due thereon, within the stipulated period, is at liberty, on or before the date stipulated, either to tender and pay to the lender the amount due to him, taking such precautions as he may think necessary to establish such tender and payment, if evaded or denied, or without any tender to the lender, to deposit the amount due to him, on or before the stipulated date, in the Dewanny Adawlut of the city or zillah in which the land may be situated; and the judge receiving the same shall furnish the party with a written receipt for the amount, specifying on what date, and for what purpose such deposit may have been made. He shall also, at the same time, cause a written notice of such deposit to be delivered to the lender; and on the application of the latter, and his surrender of the conditional bill of sale, or showing satisfactory cause why it cannot be surrendered, shall pay him the amount deposited, and take his acknowledgment to remain among the records of the court. That there may be no doubt to what amount the deposit in question is to be made, it is required to be as follows:—When the lender has not obtained possession of the lands, the deposit is to be the principal sum lent, with the stipulated interest thereon, not exceeding the

legal rate of 12 per cent. per annum; or if interest be payable and no rate has been stipulated, with interest at the established rate of 12 per cent.; but if the lender has held possession of the land, the principal sum borrowed only need be deposited, leaving the interest to be settled on an adjustment of the lender's receipts and disbursements during the period he has been in possession. In either case, a deposit made as above required, shall be considered to preserve to the borrower his full right of redemption; and if the land be in the possession of the lender, shall entitle him to demand the immediate recovery thereof, subject to the adjustment of accounts specified in the following paragraph. Provided, however, that if the borrower in any case shall deposit a less sum than above required, alleging that the sum so deposited is the total amount due to the lender for principal and interest, after deducting the proceeds of the lands in his possession, or otherwise, such deposit shall be received, and notice given to the lender as above directed; and if the amount so deposited be admitted by the lender, or be established, on investigation, to be the total amount due to him, the right of redemption shall be considered to have been fully preserved to the borrower, who will not, however, in such cases, be entitled to the recovery of his lands, until it be admitted or established that he has paid the full amount due from him.—Reg. I, 1798, sec. ii.; Reg. XXXIV, 1803, sec, xii.

46. In all instances wherein the lender on a bye-bil-wuffa, or similar conditional sale, may have been put in possession of the land, and an adjustment of accounts may consequently become necessary between him and the borrower, the lender is to account to the borrower for the proceeds of the estate whilst in his possession, on the principles prescribed with regard to mortgages and interest in Regulation XV, 1793, as far as the same may be applicable to the nature of the case. But such part of section x. of the above Regulation (paragraph 32), as directs that the mortgages therein referred to are to be considered as cancelled and redeemed, whenever the principal sum, with the simple interest due upon it, shall have been realized from the usufruct of the mortgaged property, or otherwise liquidated by the mortgagee, being inapplicable to the conditional sales referred to in this Regulation, it is hereby declared not to apply thereto.—Reg. I, 1798, sec. iii; Reg. XXXIV, 1803, sec. xiii.

47. A teep for the repayment of money lent on the conditional sales referred to in this Regulation shall not be considered a legal tender, unless accepted as such by the lender; the proof of which acceptance shall be the lender's giving up the bill of sale, or giving a written acknowledgment that he has received back the money lent by him.—Reg. I, 1798, sec. iv; Reg. XXXIV, 1803, sec. xiv.

48. Nothing in this Regulation being intended to alter the terms of contract settled between the parties in the transactions to which it refers (illegal interest excepted), the several provisions in it are to be construed accordingly; and any question of right between the parties is to be regularly brought and determined by the courts of civil justice.—Reg. I, 1798, sec. v; Reg XXXIV, 1803, sec. xv.

49. It is requisite, for the purpose of preventing improvident and injurious transfers of landed property at an inadequate price, by the forfeiture of mortgages accompanied with a condition of sale to the mortgagee if the amount advanced be not repaid within a stated period (which description of mortgage is common throughout the country, under deeds of bye-bil-wuffa, kut-cubaleh, and other similar designations), that an equitable provision should be made for allowing a redemption of the estate within a reasonable and limited period, on payment of the principal sum lent, with interest thereupon, if the mortgagee shall not have been put in possession.—Reg. XVII, 1806, sec. i.

50. When the mortgagee may have obtained possession of the land, on execution of the mortgage deed, or at any time before a final foreclosure of the mortgage, the payment or established tender of the sum lent under any such deed of mortgage and conditional sale, or of the balance due if any part of the principal amount shall have been discharged, or when the mortgagee may not have been put in possession of the mortgaged property, the payment or established tender of the principal sum lent, with any interest due thereupon, shall entitle the mortgagor and owner of such property, or his legal representative, to the redemption of his property, before the mortgage is finally foreclosed in the manner provided for by the following paragraph; that is to say, at any time within one year (Bengal, Fussily, or Willaity, according to the era current where the mortgage may take place), from and after the application of the mortgagee to the Zillah or City Court of Dewanny Adawlut for foreclosing the mortgage and rendering the sale conclusive, in conformity with the following paragraph: Provided that such payment or tender be clearly proved to have been made to the lender and mortgagee or his legal representative; or that the amount due be deposited, within the time above specified, in the Dewanny Adawlut of the zillah or city in which the mortgaged property may be situated, as allowed for the security of the borrower and mortgagor, in such cases, by paragraph 45, the whole of the provisions contained in which paragraph, as applied therein to the stipulated period of redemption, are declared to be equally applicable to the extended period

of one year, granted for an equitable right of redemption by this Regulation.—Reg. XVII, 1806, sec. vii.

51. Whenever the receiver or holder of a deed of mortgage and conditional sale, such as is described in the preceding paragraphs, may be desirous of foreclosing the mortgage and rendering the sale conclusive on the expiration of the stipulated period, or at any time subsequent before the sum lent is repaid, he shall, (after demanding payment from the borrower or his representative), apply for that purpose by a written petition, to be presented by himself, or by one of the authorized vakeels of the court, to the judge of the zillah or city in which the mortgaged land or other property may be situated. The judge, on receiving such written application, shall cause the mortgagor or his legal representative to be furnished, as soon as possible, with a copy of it; and shall at the same time notify to him, by a perwanah under his seal and official signature, that if he shall not redeem the property mortgaged in the manner provided for by the foregoing paragraph, within one year from the date of the notification, the mortgage will be finally foreclosed and the conditional sale will become conclusive.—Reg. XVII, 1806, sec. viii.

## SUCCESSION TO PROPERTY.

### *Landed Estates—General.*

52. If any zemindar, independent talookdar, or other actual proprietor of land, shall die without a will, or without having declared by a writing or verbally, to whom and in what manner his or her landed property is to devolve after his or her demise, and shall leave two or more heirs, who by the Mahomedan or Hindoo law (according as the parties may be of the former or latter persuasion) may be respectively entitled to succeed to a portion of the landed property of the deceased, such persons shall succeed to the shares to which they may be so entitled.—Reg. XI, 1793, sec. ii.

53. If any zemindar, independent talookdar, or other actual proprietor of land, shall die without a will, or without having declared by a writing, or verbally, to whom and in what manner his or her landed property is to devolve after his or her demise, and shall leave two or more heirs who, by the Mahomedan or Hindoo law (according as the parties may be of the former or latter persuasion) shall be respectively entitled to succeed to a portion of the landed property of the deceased, under the foregoing rule, such persons shall be at liberty, if they shall prefer so doing, to hold the property as a joint undivided estate. If one or more, or all of the sharers, shall be desirous of having separate possession of their respective shares, a division of the estate shall be made in the manner directed in the Regulations, and such sharer or sharers shall have the separate possession of such share or shares accordingly. If there shall be three or more sharers, and any two or more of them shall be desirous of holding their shares as a joint undivided estate, they shall be permitted to keep their shares united accordingly.—Reg. XI, 1793, sec. iii.

54. It is to be understood that if any one or more of such sharers shall apply to have the separate possession of his or their share or shares, the proportion of the public jumma charged upon the whole estate which is to be assessed upon such share or shares is to be adjusted according to the rules prescribed in section x, Regulation I, 1793 ("SETTLEMENT," paragraph 10). If the estate is held khas, or let in farm, the provisions contained in section xi, Regulation I, 1793 ("SETTLEMENT," paragraph 11), regarding estates so circumstanced which may be divided, will be applicable to it.—Reg. XI, 1793, sec. iv.

55. Nothing contained in this Regulation is to be construed to entitle any person to a share of an estate which may be now held entire by any individual, or that may devolve entire to any individual prior to the 1st July, 1794, in exclusion of the other heirs of the last proprietor, under the custom for the future abolition of which this Regulation is enacted.—Reg. XI, 1793, sec. v.

56. Nothing contained in this Regulation is to be construed to prohibit any actual proprietor of land bequeathing or transferring by will, or verbally, his or her landed estate entire to his or her eldest son, or next heir, or other son or heir, in exclusion of all other sons or heirs, or to any person or persons, or to two or more of his or her heirs, in exclusion of all other persons or heirs, in the proportions, and to be held in the manner which such proprietor may think proper; provided that the bequest or transfer be not repugnant to any Regulations that have been or may be passed by the Governor-General in Council, nor contrary to the Hindoo or Mahomedan law; and that the bequest or transfer, whether made by a will or other writing, or verbally, be authenticated by, or made before such witnesses, and in such manner as those laws and Regulations respectively do or may require.—Reg. XI, 1793, sec. vi.

57. The above rules shall not be considered to supersede or affect any established usage

which may have obtained in the jungle mehals of Midnapore and other districts, by which the succession to landed estates, the proprietor of which may die intestate, has hitherto been considered to devolve to a single heir, to the exclusion of the other heirs of the deceased. In the mehals in question, the local custom of the country shall be continued in full force as heretofore, and the courts of justice be guided by it in the decision of all claims which may come before them to the inheritance of landed property situated in those mehals.—Reg. X, 1800, sec. ii.

58. In all cases of a Hindoo, Mussulman, or other person subject to the jurisdiction of the Zillah and City Courts, having at his death left a will, and appointed an executor or executors to carry the same into effect, and in which the heir to the deceased may not be a disqualified landholder, subject to the superintendence of the Court of Wards, the executors so appointed are to take charge of the estate of the deceased, and proceed in the execution of their trust according to the will of the deceased, and the laws and usages of the country, without any application to the judge of the Dewanny Adawlut or any other officer of Government, for his sanction; and the courts of justice are prohibited to interfere in such cases, except on a regular complaint against the executors for a breach of trust or otherwise, when they are to take cognizance of such complaint in common with all others of a civil nature, and proceed thereupon according to the Regulations, taking the opinion of their law officers upon any legal exception to the executors, as well as upon the provision to be made for the administration of the estate in the event of the appointed executor being set aside, and generally upon all points of law that may occur; with respect to which the judge is to be guided by the law of the parties as expounded by his law officers, subject to any modifications enacted in any Regulation or Act.—Reg. V, 1799, sec. ii.

59. In case of a Hindoo, Mussulman, or other person subject to the jurisdiction of the Zillah or City Courts, dying intestate, but leaving a son or other heir, who by the laws of the country may be entitled to succeed to the whole estate of the deceased, such heir, if of age and competent to take the possession and management of the estate, or if under age or incompetent, and not under the superintendence of the Court of Wards, his guardian, or nearest of kin, who by special appointment or by the law and usage of the country may be authorized to act for him, is not required to apply to the courts of justice for permission to take possession of the estate of the deceased as far as the same can be done without violence; and the courts of justice are restricted from interference in such cases, except a regular complaint be preferred, when they are to proceed thereupon according to the general Regulations.—Reg. V, 1799, sec. iii.

60. If there be more heirs than one to the estate of a person dying intestate, and they can agree amongst themselves in the appointment of a common manager, they are at liberty to take possession, and the courts of justice are restricted from interference, without a regular complaint, as in the case of a single heir; but if the right of succession of the estate be disputed between several claimants, one or more of whom may have taken possession, the judge, on a regular suit being preferred by the party out of possession, shall take good and sufficient security from the party or parties in possession for his or their compliance with the judgment that may be passed in the suit; or in default of such security being given within a reasonable period, may give possession, until the suit may be determined, to the other claimant or claimants who may be able to give such security, declaring, at the same time, that such possession is not in any degree to affect the right of property at issue between the parties, but to be considered merely as an administration to the estate for the benefit of the heirs, who may, on investigation, be found entitled to succeed thereto. —Reg. V, 1799, sec. iv.

61. In the event of none of the claimants to the estate of a person dying intestate being able to give the security required by the preceding paragraph, and in all cases wherein there may be no person authorized and willing to take charge of the landed estate of a person deceased, the court within whose jurisdiction such estate may be situated (or in which the deceased may have resided, or the principal part of the estate may lie, in the event of its being situated within two or more jurisdictions) is authorized to proceed as directed in the following paragraph, to obtain the appointment of an administrator, for the due care and management of such estate, until, in the former case, the suit depending between the several claimants shall have been determined, or, in the latter case, until the legal heir to the estate, or other person entitled to receive charge thereof as executor, administrator, or otherwise, shall attend and claim the same; when, if the judge be satisfied that the claim is well founded, or if the same be established after any inquiry that may appear necessary, the administrator appointed by the court shall deliver over the estate to him, with a full and just account of all receipts and disbursements during the period of his administration.—Reg. V, 1799, sec. v.

62. Whenever the Zillah and City Courts may deem it just and proper, under the above provisions, to provide for the administration or management of landed property, the court shall issue a precept to the collector of land revenue of the district wherein the estate may be situated, directing him to hold the estate in attachment, and to appoint a person for the due care and management of the estate, under good and adequate security for the faithful discharge of the trust,

in a sum proportionate to the extent thereof; provided, however, that if any person holding an interest in the estate shall be dissatisfied with the selection made by the collector of the individual to perform the duty in question, or with the conduct of the manager at any time after his appointment, it shall be competent to such person to represent his objections to the Board of Revenue, and the Board will either confirm the manager chosen, or order the collector to appoint another person, as on consideration of the circumstances of the case may appear reasonable and proper.—Reg. V, 1827, sec. iii.

63. The precept of the Zillah or City Court above mentioned shall state specifically the property to be included in the attachment, and the attachment shall not be withdrawn without a further precept from the court to that effect.—Reg. V, 1827, sec. iv.

64. In all instances of an administrator being appointed under the foregoing provisions, the collector appointing him is authorized to fix for him (subject to the approbation of the Board of Revenue, to whom a report is to be made in such instances) an adequate personal allowance to be paid out of the proceeds of the estate, and to be a percentage thereupon after deducting the expenses of management.—Reg. V, 1799, sec. vi.

65. Nothing in this Regulation is to be understood to limit or alter the jurisdiction of the Court of Wards in the appointment of managers or guardians for the disqualified landholders, described in Regulation X, 1793, or in any case wherein a special power may be vested in the Court of Wards by the above or any other Regulation.—Reg. V, 1799, sec. viii.

66. Inconvenience to the public and injury to private rights having been experienced in certain cases, from disputes subsisting among the proprietors of joint undivided estates, it is hereby enacted, that whenever sufficient cause shall be shown by the revenue authorities, or by any of the individuals holding an interest in such estates, for the interposition of the courts of judicature, it shall be competent to the zillah and city judges to issue a precept to the collector requiring him to appoint a person, duly qualified and under proper security, to manage the estate; that is, to collect the rents and discharge the public revenue, and provide for the cultivation and future improvement of the estate. The court and the collector are to proceed in the appointment of a manager according to the rules provided in paragraphs 62 and 63.—Reg. V, 1812, sec. xxvi; Reg. V, 1827.

67. In all cases of joint undivided estates, when one or more of the proprietors shall die, leaving heirs who are under age, lunatics, or idiots, and without nominating by will a guardian or guardians to the heirs, it shall be the duty of the judge within whose jurisdiction such estate may be situated (or the principal part of it, in the event of its being situated in two or more jurisdictions), on the receipt of a report from the collector, or from any other person or persons interested in the welfare of the family of the deceased, stating the grounds on which he or they may consider the next of kin as unfit to be intrusted with the care of the person or management of the estate of the heir, to investigate the nature of the objections to the nearest of kin, and if satisfied himself that they are well-founded, the judge shall nominate some other person of character and respectability to act as guardian of the heir, reporting the circumstance in every instance to the Court of Sudder Dewanny Adawlut.—Reg. I, 1800, sec. i.

68. The minority of proprietors of joint undivided estates is declared to extend to the end of the eighteenth year.—Reg. XXVI, 1793, sec. iii.

69. In the selection of guardians to be appointed under this Regulation, the judge is to attend particularly to their capacity, character, and reponsibility; but the guardianship is in no instance to be intrusted to the legal heir of the ward, or other person interested in outliving him.—Reg. I, 1800, sec. ii.

70. It is expected that some friends of the family of the deceased will gratuitously discharge the trust of guardian; but if, on any occasion, it may become necessary to make a pecuniary compensation to the person appointed to act as guardian, the amount of such compensation is to be fixed by the judge on a due consideration of the circumstances of the case.—Reg. I, 1800, sec. iii.

71. The guardians appointed under this Regulation are to be furnished with a commission under the official seal and signature of the judge; but previously to the delivery of it, they are to give security for their appearance during the continuance of their trust, and to execute the following obligation:

"I, A. B., having voluntarily taken upon myself the guardianship of C., proprietor of a ——— anna share of the estate of D., do hereby solemnly promise and engage to execute the trust committed to me zealously and faithfully to the best of my judgment, and according to the Regulations which have been or may be prescribed for the guidance of guardians by the Governor-General in Council; I will derive no advantage myself, directly or indirectly, from any moneys belonging to my ward, which may come into my hands in the execution of my trust, beyond the compensation granted me for my superintendence, nor will I knowingly suffer any other person to derive therefrom any such undue advantage. I also promise and engage to render a true and just account of whatsoever may be received by me on account of my ward above mentioned, when

required to do so by any competent authority; and in the event of its being proved that I have been guilty of any embezzlement, or of any breach of trust injurious to his (or her) property, I hereby bind myself, my heirs and successors, to make good treble the amount of the embezzlement or injury so proved against me."—Reg. I, 1800, sec. iv.

72. Guardians appointed under this Regulation are to have the care of the person, maintenance, and if a minor, the education of the ward. They are also to vote in the election of a manager for the joint undivided estate, and to exercise the same powers of management of the estate of their wards, as could be exercised by the proprietors themselves were they qualified for the direction of their affairs, and the manager is to account to them for such portion of the profits arising from the estate as their wards may be entitled to receive, on a fair distribution thereof amongst all the joint proprietors.—Reg. I, 1800, sec. v; and Reg. XVII, 1805, sec. v.

73. Estates under charge of a manager elected, as stated in the foregoing paragraph, shall be held answerable for the payment of the revenue assessed thereon; and nothing contained in this Regulation shall be considered as exempting the lands from sale, for the realization of any balances which may at any time become due to Government.—Reg. I, 1800, sec. vi.

74. If any person shall think himself aggrieved by any act done by any of the zillah judges in the exercise of the authority vested in them by this Regulation, he is at liberty to state his complaint by petition, either to the judge in person, or to the Court of Sudder Dewanny Adawlut; and whenever any such complaint shall be made, the judge is to certify a copy of the petition, and of all his proceedings in the case to which it relates, to that court, who are authorized to confirm or rescind his decision as to them shall appear just and proper, and their judgment in all such cases is hereby declared to be final. All proceedings and papers which may be submitted to the Sudder Dewanny Adawlut under this paragraph are to be accompanied by true and faithful translations into the English language.—Reg. I, 1800, sec. vii.

### *Landed Estates—Lower Provinces.*

75. The proprietors of joint and undivided estates shall in future be left to manage their estates in such manner as they may think most advisable, under the general Regulations, without any interference on the part of the collector or the Board of Revenue, in the appointment of a manager for the collection of the revenues of the lands from the tenants, farmers, and others.—Reg. XVII, 1805, sec. ii.

76. The estate of joint proprietors will of course be liable to be sold, as at present, for the recovery of any arrears which may at any time become due therefrom to Government, and the proprietors themselves shall be considered jointly and severally responsible for the payment of the public revenue assessed upon such estates, should it at any time be necessary to have recourse to a sale of the separate property of any individual sharers, or to the confinement of their persons for the recovery of the arrears due from their estates to Government.—Reg. XVII, 1805, sec. iii.

77. The payments of revenue shall be carried to the account of the estate at large, and not to the account of any individual proprietor.—Reg. XVII, 1805, sec. iv.

78. In cases in which one or more of the proprietors of a joint undivided estate may be minors, or may be otherwise disqualified for the management of their own concerns in consequence of natural defects or infirmities, the guardians of such persons, whether nominated by the will of their parents or by the zillah judges, under Regulation I, 1800, shall superintend the interests of such disqualified persons, and shall exercise the same powers in the management of the estate of their wards as could be exercised by the proprietors themselves, were they qualified for the direction of their own affairs. —Reg. XVII, 1805, sec. v.

### *Landed Estates—Ceded and Conquered Provinces.*

79. Where more proprietors than one possess an undivided estate, and the whole of them be not within the description of disqualified landholders specified in section iii, Regulation LII, 1803, the settlement shall be made with them jointly; and they are required to elect a serberakar, or manager, who shall have the exclusive management of their lands during the continuance of his appointment. The determination of the majority of the proprietors, or of the majority of those present in the event of the absence of any, shall be binding on the remainder in the choice of a manager; and when the votes of the proprietors are equal, the election of the manager shall be determined by the greater interest of the proprietors in the property. If, in any case, the interest also be equal, the manager shall be appointed by the Board of Revenue.—Reg. LII, 1803, sec. v, cl. 1, C. P., and Reg. VIII, 1805, sec. xxix, Con. P.

80. In instances where part of the proprietors described in the foregoing paragraph may be

minors, lunatics, idiots, or others, having guardians, such guardians shall vote for them.—Reg. LII, 1803, sec. v, cl. 2, C. P.; and Reg. VIII, 1805, sec. xxix, Con. P.

81. If the joint proprietors of undivided estates, the whole of whom may not be of the description of disqualified landholders mentioned in section iii, Regulation LII, 1803, shall neglect to elect a serberakar, on the requisition of the collector of the revenue of the zillah in which such estates may be situated, the latter is authorized to nominate a manager for the approbation of the Board of Revenue, which manager, when confirmed by that Board, shall have the exclusive management, as long as it may be deemed advisable to continue him in that trust. The expense attendant on the appointment of the manager shall nevertheless be defrayed by the proprietors, who shall also be responsible for the discharge of the public revenue.—Reg. LII, 1803, sec. v, cl. 3, C. P.; and Reg. VIII, 1805, sec. xxix, Con. P.

82. The determination of the majority of the proprietors present, under the restrictions specified in paragraph 79, shall also be binding on the remainder, in agreeing or disagreeing to the jumma proposed for undivided estates: the sharers, however, if dissatisfied, may obtain a division of their lands, and a proportionate allotment of the revenue assessed thereon, but at their own expense.—Reg. LII, 1803, sec. v, cl. 4, C. P.; and Reg. VIII, 1805, sec. xxix, Con. P.

83. The rules contained in the present Regulation for the management of the persons and estates of disqualified landholders shall not be held applicable to proprietors, managers, and guardians, of the descriptions specified in the foregoing.—Reg. LII, 1803, sec. v, cl. 5, C. P.; and Reg. VIII, 1805, sec. xxix, Con. P.

*Landed Estates—Cuttack.*

84. All claims to the right of inheritance or succession to any of the under-mentioned tributary estates are to be heard, tried, and determined, in the first instance by the superintendent of the tributary mohauls in Zillah Cuttack.

| | | | |
|---|---|---|---|
| Killah . . | Neelgerry | Killah . . | Kindeaparah |
| Ditto . . | Bankey | Ditto . . | Nealgwrh |
| Ditto . . | Joonno, alias Duspullah | Ditto . . | Rampore |
| Ditto . . | Nursingpore | Ditto . . | Hindole |
| Ditto . . | Angole | Ditto . . | Teegereah |
| Ditto . . | Talcher | Ditto . . | Burmubah. |
| Ditto . . | Augurh | Ditto . . | Dekenal |
| Ditto . . | Keonjur | The territory of Mohurbunge.— | |

Reg. XI, 1816, sec. ii.

85. The superintendent in deciding cases of the above nature, shall be generally guided by the established laws and usages of the respective tributary estates. Provided however, that the estates above enumerated shall in no case be considered liable to be divided according to the Hindoo law, but shall descend entire to the person having the most substantial claim according to local and family usage.—Reg. XI, 1816, sec. iii.

86. The superintendent is prohibited from taking cognizance of any suit, the cause of action in which shall have arisen antecedent to the 14th day of October, 1803, the date on which the fort and town of Cuttack were surrendered to the British arms.—Reg. XI, 1816, sec. iv.

87. The established pleaders of the Zillah Court shall attend the superintendent's court, to be held in the court house of the Zillah Adawlut; and they shall be guided by the same rules as pleaders in the Zillah Courts; subject, of course, to the prescribed rules in the cases of paupers.—Reg. XI, 1816, sec. v.

88. The Hindoo law officer of the Zillah Court is to expound the Hindoo law, in all cases wherein it may be requisite for the due determination of causes pending before the superintendent. —Reg. XI, 1816, sec. vi.

89. All processes issued in suits instituted under this Regulation shall bear the official seal and signature of the superintendent; and shall be executed by the officers on his establishment, in like manner as all similar processes issued by the judge of the Zillah Court are executed; and any disobedience and resistance to his process shall be liable to a fine to Government to be fixed by the superintendent, subject to the confirmation of the Court of Sudder Dewanny Adawlut; or, if the offender be a landholder or sudder farmer, and the case appear to call for it, by a confiscation of his estate or farm, commutable to a fine by the Sudder Dewanny Adawlut, or Governor-General in Council.—Reg. XI. 1816, sec. vii.

90. In the trial of all suits instituted under this Regulation, the superintendent shall be guided by the general rules prescribed for the trial of civil causes before the judges of the Zillah Courts,

subject to the special provisions contained in this Regulation, or in points not specially provided for, to any qualification of the general rules which may be found expedient, and may be sanctioned by the Court of Sudder Dewanny Adawlut.—Reg. XI, 1816, sec. viii.

91. It shall not be requisite to use stamped paper for the plaints, pleadings, decrees, or any papers relative to suits instituted under this Regulation; nor shall any durkhaust on stamped paper be required for the admission of exhibits, or the issue of summonses to witnesses in such suits when tried in the first instance, or in appeal.—Reg. XI, 1816, sec. ix.

92. In all suits decided and orders passed by the superintendent under this Regulation, an appeal from his decisions and orders shall lie to the Court of Sudder Dewanny Adawlut, provided that the petition of appeal be preferred within three months after the decree or order appealed from shall have been passed.—Reg. XI, 1816, sec. xi.

93. The petition of appeal shall be presented to the superintendent, and shall contain a full and explicit statement of the appellant's objections to the decree or order from which he is desirous to appeal. The appellant, if not admitted as a pauper, shall at the same time tender good security for the payment of any costs which may be adjudged on the determination of the appeal by the Sudder Dewanny Adawlut, or if unable to give such security shall make oath or subscribe a solemn declaration to his inability, or adduce two creditable persons to prove the same.—Reg. XI, 1816, sec. xii.

94. On receipt of the petition of appeal, with the prescribed security, or proof of inability required in failure thereof, the superintendent shall cause a copy to be made of the decree or order from which the appeal may be required, and within fifteen days shall certify and transmit the same, with the petition of appeal to the Court of Sudder Dewanny Adawlut.—Reg. XI, 1816, sec. xiii.

95. When the Court of Sudder Dewanny Adawlut may admit the appeal, they will cause a precept to be issued, under the seal of the court, and the signature of the register, addressed to the superintendent, requiring him within such period as may be limited by the precept, to furnish a complete record of all papers received and proceedings held in the case; and also to call upon the respondent or respondents for his or their answer, or to appear in person or by vakeel, within a certain time before the Sudder Dewanny Adawlut, and deliver his or their answer to that court.—Reg. XI, 1816, sec. xiv, cl. 1.

96. The superintendent, on receipt of the precept, shall comply with the exigency thereof as required; or in the event of his not being able to carry the same into complete execution within the prescribed period, shall certify the same to the Court of Sudder Dewanny Adawlut, with notice of the period within which a further return will be made.—Reg. XI, 1816, sec. xiv, cl. 2.

97. It shall be optional with appellants and respondents, in appeals to the Sudder Dewanny Adawlut, under this regulation, to attend in person or by vakeel for the prosecution or defence of their appeals before that court; or to deliver their proceedings to the superintendent of the tributary mehals; who, in the latter case shall forward them, as soon as received to the Sudder Dewanny Adawlut, and communicate to the parties any orders which may be issued by that court.—Reg. XI, 1816, sec. xv.

98. In cases wherein it may appear to the Court of Sudder Dewanny Adawlut that the cause in appeal has not been sufficiently investigated, and consequently that further evidence is required for the just determination of it, that court is empowered to refer the cause back for further trial and judgment to the superintendent, or to direct that further evidence be taken and transmitted to the court.—Reg. XI, 1816. sec. xvi.

99. The provisions contained in paragraph 85, by which the decisions passed by the superintendent are to be governed, shall be considered equally applicable to the decisions of the Sudder Dewanny Adawlut in all appeals under this Regulation.—Reg XI, 1816, sec. xvii.

100. The principles of the several provisions contained in paragraphs 86 to 88, 90 and 91, shall also be considered applicable to all appeals from decisions or orders of the superintendent of the tributary mehals in zillah Cuttack, which may come before the Court of Sudder Dewanny Adawlut.—Reg. XI, 1816, sec. xviii.

101. In cases of appeal to the Sudder Dewanny Adawlut from any decree or order of the superintendent involving a transfer of property, or any change in the actual possession of property, the decree or order appealed from shall not be carried into execution during the appeal to that court, provided the appellant shall give good and sufficient security for the performance of the final decision which may be passed upon the appeal; and in no instance shall the superintendent cause to be carried into execution any such decree or order passed by him, until the period allowed for the appeal may have elapsed.—Reg. XI, 1816, sec. xix, cl. 1.

102. In the event of the appellant's not giving security for staying the execution of the decree appealed from, and of its being consequently put into execution whilst an appeal is pending, good and sufficient security shall be taken from the respondent for the performance of the final decision which may be passed upon the appeal.—Reg. XI, 1816, sec. xix, cl. 2.

103. In case neither party shall be able to give the requisite security the estate in dispute shall be attached by order of the superintendent until the security required shall be received, or until the final determination be passed by the Sudder Dewanny Adawlut upon the case.—Reg. XI, 1816, sec. xix, cl. 3.

104. No decree or order, whether of the superintendent of the tributary mehauls, or of the Sudder Dewanny Adawlut, involving a transfer of the property or an actual change in the possession of any of the estates enumerated in paragraph 84, shall be carried into execution without a previous communication being made by the Sudder Dewanny Adawlut to Government; in order that sufficient time may be afforded for the adoption of any precautionary measures which may be eventually judged requisite to support and enforce the execution of the decree or order without hazard to the public tranquillity.—Reg. XI, 1816, sec. xix, cl. 4.

105. The judgments of the Sudder Dewanny Adawlut shall be final and conclusive in all appeals heard and determined by the court under this Regulation, within the limitation of appeals to the Queen in Council, prescribed, viz. 1000*l.* or rupees 10,000.—Reg. XI, 1816, sec. xx, cl. 1; and Order of Her Majesty in Council, 10th April, 1838, paragraph I.

106. If the amount or value adjudged shall, exclusive of costs of suit, exceed the sum of 1,000*l.*, or rupees 10,000, a further appeal will be open to Her Majesty in Council; and shall be received by the Sudder Dewanny Adawlut, under the provisions which have been enacted for receiving such appeals in Regulation XVI, 1797.—Reg. XI, 1816, sec. xx, cl. 2; and Order of Her Majesty in Council, 10th April, 1838, paragraph I.

### *Personal Property.*

107. The judges of the Zillah or City Courts, on receiving information that any person within their respective jurisdictions has died intestate, leaving personal property, and that there is no claimant to such property, are to adopt such measures as may be necessary for the temporary care of the property, and to issue an advertisement in the current languages of the country, requiring the heir of the deceased, or any person entitled to receive charge of his effects, to attend for this purpose. Such advertisement to be published on the spot where the property was found, at the Dewanny Adawlut cutcherry of the zillah or city, and if ascertainable, at the dwelling place of the deceased; after which, should any person attend and satisfy the judge of his title to the property, or to receive charge thereof as executor, administrator, or otherwise, the same is to be delivered up to him, on repayment of any necessary expense incurred in the care of it. Should no claim be preferred within the twelve months next ensuing, an inventory of the property and report of the circumstances of the case is to be transmitted to the Governor-General in Council for his orders.—Reg. V, 1799, sec. vii.

108. It being enacted, in Statute XXXIX, Geo. III, chapter 79, section xxi, that whenever any British subject shall die intestate, and neither a creditor nor the next of kin shall apply for letters of administration, the registrar of the Supreme Court shall administer to the estate of the deceased; and it shall be the duty of the zillah and city judges, whenever any British European subject shall die within the limits of their jurisdictions and no will shall be found among the effects of the deceased, to report the circumstance without delay to the registrar of the Supreme Court of Judicature, retaining the property under their charge until letters of administration shall have been obtained by that officer, or by some other person, from the Supreme Court of Judicature, when the property is to be delivered over to the person obtaining such letters; or in the event of a will being subsequently discovered, to the person who obtains probate of the will.*—Reg. XV, 1806, sec. vi.

### RULES FOR THE PROTECTION OF THE PROPERTY OF DECEASED PERSONS FROM WRONGFUL POSSESSION.

109. Whenever a person dies leaving property, moveable or immoveable, it shall be lawful for any person claiming a right by succession thereto, or to any portion thereof, to make application to the judge of the court of the district where any part of the property is found or situate for relief, either after actual possession has been taken by another person, or when forcible means of seizing possession are apprehended.—Act XIX, 1841, sec. i.

110. It shall be lawful for any agent, relative, or near friend, or for the Court of Wards in cases within their cognizance, in the event of any minor, disqualified, or absent person being

* The Act 55 Geo. III, cap. 84, sec. ii, provides that administration shall be granted to the attorneys of absent persons entitled to administration preferably to the registrar of the Supreme Court

entitled by succession to such property as aforesaid, to make the like application for relief.—Act XIX, 1841, sec. ii.

111. The judge to whom such application shall be made shall, in the first place, inquire by the solemn declaration of the complainant, and by witnesses and documents at his discretion, whether there be strong reasons for believing that the party in possession, or taking forcible means for seizing possession, has no lawful title, and that the applicant, or the person on whose behalf he applies, is really entitled and is likely to be materially prejudiced if left to the ordinary remedy of a regular suit, and that the application is made *bonâ fide*.—Act XIX, 1841, sec. iii.

112. In case the judge shall be satisfied of the existence of such strong ground of belief, but not otherwise, he shall cite the party complained of, and give notice of vacant or disturbed possession by publication, and after the expiration of a reasonable time shall determine summarily the right to possession (subject to regular suit as hereinafter mentioned) and shall deliver possession accordingly; provided always, that the judge shall have the power to appoint an officer who shall take an inventory of effects, and seal or otherwise secure the same, upon being applied to for the purpose, without delay, whether he shall have concluded the inquiry necessary for citing the party complained of or not.—Act XIX, 1841, sec. iv.

113. In case it shall further appear, upon such application and examination as aforesaid, that danger is to be apprehended of the misappropriation or waste of the property before the summary suit can be determined, and that the delay in obtaining security from the party in possession, or the insufficiency thereof, is likely to expose the party out of possession to considerable risk, provided he be the lawful owner; it shall be lawful for the judge to appoint one or more curators, with the powers hereinafter next mentioned, whose authority shall continue according to the terms of his or their respective appointments, and in no case beyond the determination of the summary suit and the confirmation or delivery of possession in consequence thereof. Provided always, that in the case of land, the judge may delegate to the collector or to his officer the powers of a curator, and also that every appointment of a curator in respect of any property be duly published.—Act XIX, 1841, sec. v.

114. The judge shall have power to authorize such curator, either to take possession of the property generally, or until security be given by the party in possession, or until inventories of the property shall have been made, or for any other purpose necessary for securing the property from misappropriation or waste by the party in possession. Provided always, that it shall be entirely discretionary with the judge, whether he shall allow the party in possession to continue in such possession on giving security, or not, and any continuance in possession shall be subject to such orders as the judge may issue touching inventories, or the securing of deeds or other effects.—Act XIX, 1841, sec vi.

115. The judge shall exact from the curator security for the faithful discharge of his trust, and for rendering satisfactory accounts of the same as hereinafter mentioned, and may authorize him to receive out of the property such remuneration as shall appear reasonable, but in no case exceeding five per centum on the personal property and on the annual profits of the real property. All surplus moneys realized by the curator shall be paid into court, and invested in public securities for the benefit of the persons entitled thereto upon adjudication of the summary suit. Provided always, that although security shall be required from the curator with all reasonable despatch, and, where it is practicable, shall be taken generally to answer all cases for which the person may be afterwards appointed curator, yet no delay in the taking of security shall prevent the judge from immediately investing the curator with the powers of his office.—Act XIX, 1841, sec. vii.

116. Where the estate of the deceased person shall consist wholly or in part of land paying revenue to Government, in all matters regarding the propriety of citing the party in possession, of appointing a curator, and of nominating individuals to that appointment, the judge shall demand a report from the collector, and the collector is hereby required to furnish the same. In cases of urgency, the judge may proceed, in the first instance, without such report, and he shall not be obliged to act in conformity thereto; but, in case of his acting otherwise than according to such report, he shall immediately forward a statement of his reasons to the Court of Sudder Dewanny Adawlut, and the Court of Sudder Dewanny Adawlut, if they shall be dissatisfied with such reasons, shall direct the judge to proceed conformably to the report of the collector.—Act XIX, 1841, sec. viii.

117. The curator shall be subject to all orders of the judge regarding the institution or the defence of suits, and that all suits may be instituted or defended in the name of the curator on behalf of the estate. Provided that an express authority shall be requisite in the sunnud of the curator's appointment for the collection of debts or rents; but such express authority shall enable the curator to give a full acquittance for any sums of money received by virtue thereof.—Act XIX, 1841, sec. ix.

118. Pending the custody of the property by the curator, it shall be lawful for the judge to

make such allowances to parties having a *primâ facie* right thereto as, upon a summary investigation of the rights and circumstances of the parties interested, he shall consider that necessity may require, taking, at his discretion, security for the repayment thereof, with interest, in case the party shall, upon the adjudication of the summary suit, appear not to be entitled thereto.—Act XIX, 1841, sec. x.

119. The curator shall file monthly accounts in abstract, and at the period of every three months, if his administration last so long; and upon giving up the possession of the property, file a detailed account of his administration to the satisfaction of the judge.—Act XIX, 1841, sec. xi.

120. The accounts of any such curator as is above described shall be open to the inspection of all parties interested; and it shall be competent for any such interested party to appoint a separate person to keep a duplicate account of all receipts and payments by such curator: and if it be found that the accounts of any such curator are in arrear, or if they shall be erroneous or incomplete, or if the curator shall not produce them whenever he shall be ordered to do so by the judge, he shall be liable to a fine not exceeding one thousand rupees for every such default. —Act XIX, 1841, sec. xii.

121. After the judge of any district shall have appointed any curator, such appointment shall preclude the judge of any other district within the same presidency from appointing any other curator, provided the first appointment be in respect of the whole of the property of the deceased. But if the appointment be only in respect of a portion of the property of the deceased, this shall not preclude the appointment within the same presidency of another curator in respect of the residue or any portion thereof; provided always, that no judge shall appoint a curator, or entertain a summary suit, in respect of property which is the subject of a summary suit previously instituted under this Act before another judge; and provided further, that if two or more curators be appointed by different judges for several parts of an estate, it shall be lawful for the Sudder Dewanny Adawlut to make such order as it shall think fit for the appointment of one curator of the whole property.—Act XIX, 1841, sec. xiii.

122. This Act shall not be put in force unless the aforesaid application to the judge be made within six months of the decease of the proprietor, whose property is claimed by right in succession. —Act XIX, 1841, sec. xiv.

123. This Act shall not be put in force to contravene any public Act of settlement. Neither in cases in which the deceased proprietor shall have given legal directions for the possession of his property after his decease in the event of minority or otherwise, in opposition to such directions; but, in every such case, so soon as the judge having jurisdiction over the property of a deceased person shall be satisfied of the existence of such directions, he shall give effect thereto.—Act XIX, 1841, sec. xv.

124. This Act shall not be put in force for the purpose of disturbing the possession of the Court of Wards of any presidency; and in case a minor, or other disqualified person whose property shall be subject to the Court of Wards, shall be the party on whose behalf application is made under this Act, the judge if he determine to cite the party in possession and also appoint a curator, shall invest the Court of Wards with the curatorship of the estate pending the suit without taking such security as aforesaid, and in case the minor or other disqualified person shall, upon the adjudication of the summary suit, appear to be entitled to the property, possession shall be delivered to the Court of Wards.—Act XIX, 1841, sec. xvi.

125. Nothing in this Act contained shall be any impediment to the bringing of a regular suit either by the party whose application may have been rejected, before or after citing the party in possession, or by the party who may have been evicted from the possession under this Act.—Act XIX, 1841, sec. xvii.

126. The decision of the judge upon the summary suit under this Act shall have no other effect than that of settling the actual possession; but for this purpose it shall be final, not subject to any appeal or order for review.—Act XIX, 1841, sec. xviii.

127. It shall be lawful for the Governments of the respective presidencies to appoint public curators for any district or number of districts: and the judge having jurisdiction shall nominate such public curator or curators in all cases where the choice of a curator is left discretionary with him under preceding provisions of this Act.—Act XIX, 1841, sec. xix.

128. Whenever a person dies leaving moveable or immoveable property within the local limits of the jurisdiction of any of Her Majesty's Supreme Courts, and such court shall be satisfied that danger is to be apprehended of the misappropriation and waste of the property before it can be ascertained who may be legally entitled to the succession to such property, it shall be lawful for the said court to authorize and enjoin the ecclesiastical registrar, or one or more curators, to collect such effects, and hold, or deposit, or invest the same in such manner and place and upon such security, and subject to such orders and directions as the court may deem expedient.—Art. XIX, 1841, sec. xx.

RULES FOR THE COLLECTION OF DEBTS ON SUCCESSION TO DECEASED PERSONS.

129. No debtor of any deceased person shall be compelled in any court of law to pay his debt to any person claiming to be entitled to the effects of any deceased person, or any part thereof, except on the production of a certificate to be obtained in manner hereinafter mentioned, or of a probate or letters of administration, unless the court shall be of opinion that payment of the debt is withheld from fraudulent or vexatious motives, and not from any reasonable doubt as to the party entitled.—Act. XX, 1841, sec. i.

130. The Zillah or District Court within the jurisdiction of which any part of the property of the deceased may be found, shall have authority to grant a certificate under this Act. The applicant in his petition shall set forth his title. The judge shall issue notice of application, inviting claimants, and fixing a day for hearing the petition; and upon the appointed day, or as soon after as may be convenient, shall determine the right to the certificate, and grant the same accordingly.—Act. XX, 1841, sec. ii.

131. The certificate of the district or zillah judge shall be conclusive of the representative title against all debtors to the deceased, and shall afford full indemnity to all debtors paying their debts to the person in whose favour the certificate has been granted.—Act. XX, 1841, sec. iii.

132. The district or zillah judge may take such security as he shall think necessary, from any person to whom he shall grant a certificate for rendering an account of debts received by him, and for indemnity of persons who may be entitled to the whole or any part of the moneys received by virtue of such certificate, whose right to recover the same by regular suit against the holder of the certificate is not affected by this Act.—Act. XX, 1841, sec. iv.

133. The granting of such certificate may be suspended by an appeal to the Court of Sudder Dewanny Adawlut, which court may declare the party to whom the certificate should be granted or may direct such further proceedings for the investigation of the title as it shall think fit. The court may also, upon petition, after a certificate shall have been granted by the district or zillah judge, grant a fresh certificate in supersession of the certificate granted by the district or zillah judge; and such fresh certificate shall not affect any payments made to the person to whom any former certificate may have been granted without notice that the same has been superseded, but shall entitle the person named therein to receive all moneys that may have been recovered under the first certificate from the person to whom the same may have been granted.—Act XX, 1841, sec. v.

134. Every certificate shall give authority to the person to whom the same is granted throughout the presidency within which the same is granted; and no certificate subsequently granted in respect of the same property shall be valid or effectual, except as hereinafter mentioned. —Act XX. 1841, sec. vi.

135. A person certified as aforesaid, may be empowered to receive interest on Government notes and dividends, or on shares of any bank, or parts thereof, and to negotiate such securities. He may also be empowered to receive a share of such interest of dividends, or to negotiate a share of such securities. But these powers shall only arise by express words in the certificate.—Act XX, 1841, sec. vii.

136. Where a certificate shall have been granted, in cases in which such certificate would be valid but for the previous grant of a certificate, all payments made to the person holding the later certificate in ignorance of the grant of the previous certificate, shall be held good against claims under such previous certificate.—Act XX, 1841, sec. viii.

137. With regard to the property of deceased Hindoos, Mahomedans, and other persons not usually designated by the term British subjects, no certificate in respect of any such property shall be valid, if made after a probate or letters of administration granted in respect of the same, provided assets belonging to the deceased were, at the time of his death, within the local jurisdiction of the court granting the probate or letters of administration.—Act XX, 1841, sec. ix.

138. Where a certificate shall have been granted, in cases in which such certificate would be valid but for a probate or letters of administration previously granted, all payments made to the person holding the certificate, in ignorance of the previous granting of the probate or letters of administration, shall be held good against claims under the probate or letters of administration so previously granted.—Act XX, 1841, sec. x.

139. No probate or letters of administration shall be valid for the purpose of the recovery of debts or for the security of debtors, after a certificate granted in respect of the same property for which such probate or letters of administration shall have been granted, provided assets belonging to the deceased were at the time of his death within the jurisdiction of the court granting such certificate.—Act. XX, 1841, sec. xi.

140. Where probate or letters of administration may have been granted, in cases in which

such probate or letters of administration would be valid but for the previous grant of a certificate, all payments made in ignorance of the previous grant of the certificate shall be held good against claims under such previous certificate.—Act XX, 1841, sec. xii.

141. Curators appointed under the Act XIX, 1841, shall not exercise any powers which, but for that Act, would lawfully belong to such persons obtaining certificates, executors or administrators, where a certificate, probate or letters of administration, have been actually obtained; but all persons who may have paid debts or rents to a curator, authorized by a judge to receive the same, shall be indemnified, and the curator shall be responsible for the payment of the same to the person who has obtained a certificate, the executor or administrator, as the case may be.—Act XX, 1841, sec. xiii.

142. All probates and letters of administration granted by any of Her Majesty's courts in cases in which any assets belonging to deceased persons were, at the time of their deaths, within the local jurisdiction of the court granting the probate or letters of administration, shall have the effect of probate and letters of administration, granted in respect of the property of British subjects, but for the purpose of the recovery of debts only, and the security of debtors paying the same; except so far as is in this Act provided.—Act XX, 1841, sec. xiv.

143. Nothing in this Act contained shall be held to extend to the property of any person usually designated as a British subject.—Act XX, 1841, sec. xv.

144. In the case of disputes among persons claiming to be jointly entitled to be proprietors of any public securities of the East India Company, as the representatives of any deceased person, the district or zillah judge, whenever sufficient cause shall be shown to him, and on the request of any such claimant, may grant a certificate of administration of the personal estate of the deceased, so far as concerns the said securities, according to Act XX, of 1841, to such persons as shall be from time to time appointed by the Governor of Bengal, to act as trustee under this Act; and shall specify in such certificate the several persons appearing to him to be such proprietors, and their several shares; and the said trustee, by virtue of such certificate, shall be entitled to receive and give discharges for the interest accruing due on such securities; and shall account for, and pay the sum to the several persons specified in the certificate to be thereunto entitled, according to the shares therein set forth; and shall be empowerd to act in all other respects concerning the said securities as agent for such persons; and shall be entitled to the same rate of commission upon all such transactions as is allowed to the Government agent for the time being on the like transactions, as agent of the public creditors of the East India Company, by any Regulations from time to time made by the Governor-General of India in Council: Provided, nevertheless, that the right of any other person to recover the whole or any part of the moneys so paid, by regular suit against all or any of the persons to whom the same have been paid, shall not be affected by this Act.—Act X. 1851, sec. i.

145. If any such disputes, among persons claiming to be proprietors of public securities of the East India Company, are not ended within two years from the date of the certificate of administration granted by any district or zillah judge, the said trustee may apportion the principal sum of the said securities rateably among the parties appearing from the aforesaid certificate to be proprietors thereof, and may apply for and receive new securities from the proper officer appointed to issue the same, in the respective names of the several parties certified to be entitled thereto; provided that such new securities shall be issued only according to the rules in use for the regulation and issue of such public securities; and the receipt of the said trustee for such new securities, by endorsement on the whole securities or otherwise, shall be a legal discharge to the East India Company against the disputing parties claiming to be entitled to the several amounts for which such securities shall be issued: Provided always, that if the amount of any securities in dispute, or any part thereof, shall not be sufficient to admit of their rateable division according to the rules applicable to the issue of such securities, the said trustees may sell and dispose of the disputed securities, or such part as shall be necessary under this provision, and apportion the proceeds thereof among the parties entitled to receive the same.—Act X, 1851, sec. ii.

146. Every such certificate granted to the trustee appointed under this Act, shall be taken to supersede and annul any previous certificate given of a half or any other share in the said personal estate, so far as concerns the said securities.—Act X, 1851, sec. iii.

147. As regards residents in foreign states, out of the jurisdiction of British courts of justice, a certificate of administration to personal estates granted by the British representative accredited to that state, or as regards the residents in any district to which Act XX of 1841 does not extend, such certificate granted by the British officer in that district holding the highest executive authority, shall have the same effect as regards public securities of the East India Company, as a certificate granted to a native subject of Her Majesty under the provisions of Act XX of 1841, as amended by this Act.—Act X, 1851, sec. iv.

148. This Act (X, 1851,) shall be construed with and as part of Act XX, 1841, paragraphs 129 to 143.—Act X, 1851, sec. v.

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149. Whereas doubts exist as to the limits within which certificates of administration to personal estates granted in pursuance of section iv, Act X, of 1851 (paragraph 147), by the British representative accredited to a foreign state, or by the British officer holding the highest executive authority in a district to which Act XX, of 1841 (paragraphs 129 to 143), does not extend are operative, and it is expedient to remove such doubts, and also to amend the provisions of the said Acts; It is enacted as follows:—Act VIII, 1854. Preamble.

150. Every such certificate of administration as aforesaid, which shall hereafter be granted, shall as regards the public securities of the East India Company, give authority to the person to whom the same shall be granted throughout the territories in the possession and under the Government of the East India Company, and have the same effect throughout the said territories as a certificate granted under the provisions of Act XX, of 1841, as amended by Act X, of 1851, has within the Presidency within which the same is granted.—Act VIII, 1854, sec. i.

151. No certificate granted under the provisions of Act XX, of 1841, as amended by Act X, of 1851, or under the provisions of Act X, of 1851, shall empower the person certified to negotiate any Government note or share of a Bank or any share of such security, or to receive any interest or dividend due thereon, or any share of such interest or dividend, unless the Government note or Bank share shall be specified in such certificate.—Act VIII, 1854, sec. ii.

152. Any judge, British representative or other British officer authorized to grant a certificate may from time to time extend the same to any Government note or Bank share not originally specified therein, and every such extension shall have the same effect as if the Government note or Bank share to which the certificate shall be extended had been originally specified therein.—Act VIII, 1854 ,sec. iii.

153. Upon the extension of a certificate, security may be required in the same manner as upon the original grant of a certificate.—Act VIII, 1854, sec. iv.

## REGISTRY OF DEEDS.

### *Offices where established—who to act as Registers.*

NOTE.—The provisions of the following Regulations affecting the validity of instruments executed at different times, under the operation of the rules at such time in force, the whole have been retained, though not all at present operative on instruments executed under the laws actually in force.

154. An office for the registry of deeds shall be established in each zillah, and in the cities of Patna, Dacca, and Moorshedabad. The superintendent of the office shall make and subscribe the following oath or declaration previous to his entering on the execution of the duties of the office.

"I, A. B., solemnly swear (or declare) that I will trully and faithfully execute the office of register of deeds for the zillah or city of ————, and that I will not, directly or indirectly, derive any pecuniary or other benefit whatsoever from the said office, excepting such as is or may be allowed to me by this Regulation, or by any Regulation that may be hereafter passed by the Governor-General in Council: So help me God."—Reg. XXXVI, 1793, sec. ii; Reg. XVIII, 1817, sec. ii.

155. In addition to the offices established under the provisions of Regulation XXXVI, 1793, offices for the registry of deeds may be established at any civil stations, and may be placed by the orders of Government under the superintendence of any officers resident at such stations whom Government may nominate for that purpose.—Act XXX, 1838, sec. ii.

156. The registration of deeds at any office of registry authorized by Act XXX, 1838, shall be subject to the payment of the same fees as are prescribed in paragraph 186, for deeds registered at an office established at the station of a Zillah or City Court.—Act XXX, 1838, sec. iii.

157. Section xv, Regulation XXXVI, 1793, (paragraph 158,) and clauses 2 and 3; section vi, Regulation XX, 1812, (paragraphs 194 and 195,) shall not be held applicable to offices and persons established and appointed for the registry of deeds under this Act.—Act XXX, 1838, sec. iv.

158. The several registers are permitted, in cases of absence from their stations, sickness or any other disqualification from personal attendance to the duties of their office, to appoint (with the approbation of the judge, a deputy, being duly qualified, to act for them; and such deputy, so appointed and approved, after taking a similar oath or affirmation to that prescribed for the register, shall be authorized to perform the several acts which the register is hereby empowered to perform. This permission, however, is to be expressly confined to the cases stated; and the registers, when

present at their stations, are not to be allowed to employ any deputy, but are to be required to discharge personally the duties of the office committed to them —Reg. XXXVI, 1793, sec. xv.

159. The office for the registry of deeds in the several zillahs and cities, which is provided for by Regulation XXXVI, 1793, shall generally be established at the station of the Zillah or City Court, and shall, as directed by the Regulations above mentioned, be superintended by the register of the Zillah or City Court, or where there may be more registers than one by the register employed at the station of the Zillah or City Court, so long as he may continue to reside at such station; and as already required by the Regulations in force, he shall personally discharge the duties of the office committed to him, whilst present at the station, unless prevented by sickness, or otherwise; in which case, as well as in all cases of temporary absence from the station, he is permitted, as heretofore, with the approbation of the judge of the Zillah or City Court to which he may be attached, to appoint a deputy, being a covenanted servant of the Company, and duly qualified to act for him; who, after taking an oath or declaration similar to that prescribed for the register of deeds, is authorized to perform the several acts which the register is empowered to perform.—Reg. IV, 1824, sec. ii.

160. Whenever a zillah or city register, vested with the superintendence of the registry office may be absent from the station where the office is established, without having appointed a deputy, in pursuance of the foregoing paragraph, the judge of the station is hereby authorized to appoint some duly qualified covenanted servant of the Company to act as deputy register of deeds, and the deputy so appointed, after being duly sworn, or making the required declaration, shall be authorized to perform the prescribed duties of the office.—Reg. IV, 1824, sec. iii.

161. It shall, moreover, be the duty of the zillah or city judge to appoint a qualified person, being a covenanted servant of the Company, to officiate as register of deeds, whenever, from a vacancy in the office of register, the nomination of a deputy cannot take effect agreeably to the preceding paragraph.—Reg. IV, 1824, sec. iv.

162. In the event of there being no covenanted servant at the station, to whom, in the cases mentioned in the two preceding paragraphs, the judge may deem it proper to confide the office of registering deeds, he is himself authorized and required to perform the prescribed duties of the office.—Reg. IV, 1824, sec. v.

NOTE.—The foregoing rules are virtually superseded by the abolition of the office of Register to the Zillah Court, but they are retained here because no other distinct provision is made in the Regulations for the appointment of a Register of Deeds, nor for the substitution of a representation in the event of the Register's absence.

163. Whenever a zillah or city judge may deem the appointment of officers for the registry of deeds advisable, he shall, having previously obtained the consent of the Governor-General in Council to that effect, be competent to make over to the principal sudder ameen at his station the duty of registering deeds, subject to all the existing rules prescribed for that duty, and such principal sudder ameen, while so officiating, shall receive the fees authorized by the Regulations for the performance of that duty.—Reg. VII, 1832, sec. iv.

164. In case of the death or absence on leave of any person appointed by Government to register deeds under Act XXX, 1838, it shall be lawful for the zillah judge or other officer specially authorized by Government, to appoint any person whom he may think proper to take temporary charge of the office and to register deeds, in the same manner as if such person had been appointed to the office by the orders of Government.—Reg. XXX, 1838, sec. vi.

*What deeds may be registered—Indigo Contracts.*

165. First.—The register is authorized and required to register memorials of the following deeds.

Second.—Deeds of sale, or gift of lands, houses, and other real property.

Third.—Deeds of mortgage on land, houses, and other real property, as well as certificates of the discharge of such incumbrances.

Fourth.—Leases and limited assignments of land, houses, and other real property, including generally all conveyances used for the temporary transfer of real property.

Fifth.—Wuseatnamahs or wills.

Sixth.—Written authorities from husbands to their wives to adopt sons after their (the husband's) demise.—Reg. XXXVI, 1793, sec. iii.

166. The person holding the office of register of deeds is likewise authorised and required to register bonds, promissory notes, and generally all obligations for the payment of money. Provided, however, that such registry shall only be made on the application, in person or by representative, of the party by whom the said bonds, promissory notes, or other obligations may have been executed.—Reg. XX, 1812, sec. v, cl. 1.

167. A separate register-book shall be kept for the registry of obligations of the description of those specified in the preceding paragraph.—Reg. XX, 1812, sec. v, cl. 2.

168. The rules contained in paragraphs 172 to 176 and 192, shall be considered applicable to the registry of bonds, promissory notes, and other obligations for the payment of money, with the restriction already stated respecting the party on whose application such registry is to be made.—Reg. XX, 1812, sec. v, cl. 3.

169. The register of deeds for the conveyance of landed property is likewise authorized and required to register engagements contracted by indigo planters, whether European or natives, with the ryots and others for the delivery of the indigo plant.—Reg. XX, 1812, sec. iii, cl. 1.

170. A separate register-book shall be kept for the registry of contracts of the description of those specified in the preceding paragraph.—Reg. XX, 1812, sec. iii, cl. 2.

171. It shall be optional with persons contracting engagements for the delivery of indigo, to register them, or not, as they may judge proper; but every engagement contracted for the delivery of indigo after the 1st day of January, 1813, which may be duly registered according to the provisions of this Regulation, shall, in case it be in other respects a legal and *bonâ fide* engagement, be satisfied in preference to every other contract for the delivery of indigo, being the produce of the same ground, which may not have been registered, whether the last-mentioned deed shall have been executed previously or subsequently to the registered deed.—Reg. XX, 1812, sec. iii, cl. 3.

172. Whenever any person may be desirous of procuring any engagement for the delivery of indigo to be registered, he shall attend, either in person or by an authorized representative, at the office of the register, with the original deed and an exact copy of it, attested by one at least of the parties to the instrument, and by one of the witnesses to the execution of it. The register, on having ascertained by evidence on oath or affirmation, that the original was duly executed, and having compared with it the copy above required to be furnished, shall, without loss of time, specify on the back of the latter, the date and hour of the day on which it was presented for the purpose of being registered, and shall cause it to be filed according to the order of time in which it may have been received, and entered in the register-book according to the same order; certifying in the said book the hour and day on which the entry was completed and inspected by him. The entry in the register-book shall, in all practicable cases, be made at the time of endorsing the copy required to be furnished; but the insertion of it shall, on no account, be postponed beyond the day on which the endorsement may be made.—Reg. XX, 1812, sec. iii, cl. 4.

173. On completion of the entry in the manner above stated, the register shall return the original deed to the person from whom it may have been received, with a certificate under his signature endorsed on the deed, specifying the date and the hour of the day on which it was registered, and the page on which it is entered in the register-book.—Reg. XX, 1812, sec. iii, cl. 5.

174. The certificate of the register, endorsed on the original deed in the manner stated in the preceding paragraph, shall be deemed in all courts of judicature sufficient evidence of the registry.—Reg. XX, 1812, sec. iii, cl. 6.

175. The register shall, on application being made to him, allow all persons to inspect the copies of engagements for the delivery of indigo attested, endorsed, and filed in the manner prescribed in paragraph 172, as well as the register-book in which such engagements may have been entered.—Reg. XX, 1812, sec. iii, cl. 7.

176. In like manner, the register shall, on application being made to him, grant copies of all engagements registered by him to persons whom they may concern; and such copies, in the event of the originals being lost, destroyed, or not forthcoming, shall be received as sufficient evidence of such deeds in all courts of judicature whatever; proof being made by the subscribing witnesses to the original deed that the original was duly executed.—Reg. XX, 1812, sec. iii, cl. 8.

177. The registers are not warranted in registering deeds of any description, excepting those specified in Regulation XXXVI, 1793, and in Regulation XX, 1812. The register-books shall, in future, be uniformly made of English paper and carefully bound.—Reg. XX, 1812, sec. vii.

### *Forms of Registry and Fees.*

178. The registry of all deeds shall be made *in the register office of the zillah or city in which the property affected by them may be situated; and if the property be situated in the jurisdictions of two or more of the Courts of Dewanny Adawlut, the deeds affecting it shall be registered in the office of each jurisdiction*.—Reg. XXXVI. 1793, sec. vii.

179. Each species of deed shall be registered in a separate book, and the judge of the Dewanny Adawlut of the zillah or city, shall note in his own handwriting, on the last page of each book, the number of pages contained in each book and attest the note with his official signature. No

register shall be deemed authentic excepting such as shall be so paged and attested.—Reg. XXXVI, 1793, sec. viii, cl. 1.

180. Every deed entered in a register book shall be numbered, and the date of the month and the year, as well as the time of the day when every deed may be registered, shall be noted in the margin of the register-books, which shall be deposited among the records of the Dewanny Adawlut.—Reg. XXXVI, 1793, sec. viii, cl. 2.

181. The person or persons executing the deed, or his or their authorized representative, with one or more of the witnesses to the execution of it, shall attend at the register's office, and prove, by oath or affirmation before the register, the due execution of the deed; upon which the register shall cause an exact copy of the deed to be entered in the proper register book, and after having caused it to be carefully compared with the original, shall attest the copy with his signature, and shall also cause the parties, or their authorized representatives in attendance, to subscribe their signatures to the copy, in the presence of two creditable witnesses (whose names shall also be subscribed thereto), and shall then return the original, with a certificate under his signature endorsed thereon, specifying the date, and the time of the day on which such deed shall have been so registered, with references to the book containing the registry thereof, and the page and number under which the same shall have been entered therein.—Reg. XXXVI, 1793, sec. ix, cl. 2.

182. The certificate of the register, endorsed agreeably to the forms described in the preceding paragraph, shall be considered in all courts of justice to be sufficient evidence of the registry.—Reg. XXXVI, 1793, sec. x.

183. The register shall, on application being made to him, allow all persons to inspect the register books, as well as grant copies of all deeds registered by him to persons whom they may concern; and such copies, in the event of the originals being lost, destroyed, or not forthcoming, shall be received as sufficient evidence of such deeds in all courts of justice whatever, proof being made by the subscribing witnesses to the original deed that the original was duly executed.—Reg. XXXVI, 1793, sec. xi.

184. If any person or persons shall at any time be suspected, on sufficient grounds for commitment, of counterfeiting or falsifying any entry in any of the register books ordered to be kept, or any certificate such as is directed to be granted by this Regulation, he or they shall be prosecuted on the part of Government in the Criminal Court of Judicature, and the several registers shall, as agents for the prosecution, adopt every legal measure in their power for the proof of the crime, and the due execution of the laws against the offender.—Reg. XXXVI, 1793, sec. xii.

185. Every register shall attend at his office for the dispatch of all business belonging thereto, during certain specified hours each day, between sunrise and sunset (Sundays and holidays excepted): and after determining the particular hours of such attendance, he shall affix a written notice thereof in some conspicuous part of his office for general information.—Reg. XXXVI, 1793, sec. xiii.

186. The register shall be allowed a fee of two rupees for every deed registered by him, to be paid by the party causing the same to be registered, and no more; a fee of one rupee for every copy furnished of a deed registered by him, to be paid by the party applying for such copy, and no more; and a fee of half a rupee for every search made on an inspection of the register, to be paid by the party inspecting the same, and no more. The register is authorized to refuse the official acts required from him until these fees be paid, and from such fees he shall provide the necessary native officers to make the entries and copies directed, as well as the requisite stationery.—Reg. XXXVI, 1793, sec. xiv.

187. Whenever any person may be desirous of procuring any deed of the description of those specified in paragraph 162, to be registered, he shall attend, either in person or by an authorized representative, at the office of the register, with the original deed and an exact copy of it, attested by one at least of the parties to the instrument and by one of the witnesses to the execution of it. The register, after having adopted the prescribed measures for ascertaining the validity of the original, and having compared with it the copy above required to be furnished, shall without loss of time specify on the back of the latter, the date and hour of the day on which it was presented for the purpose of being registered, shall cause it to be filed according to the order of time in which it may have been received, and entered in the register book according to the same order, certifying in the said book the day and hour on which the entry was completed and inspected by him.—Reg. XX, 1812, sec. ii, cl. 1.

188. On completion of the entry in the manner above stated, the register shall return the original deed to the person from whom it may have been received, with a certificate under his signature endorsed on the deed, specifying the date and the hour of the day on which it was registered, and the page on which it was entered in the register book.—Reg. XX, 1812, sec. ii, cl. 2.

189. The entry in the register-book shall, in all practicable cases, be made at the time of endorsing the copy required to be furnished; but the insertion of it, shall, on no account, be

postponed beyond the day on which the endorsement may be made.—Reg. XX, 1812, sec. ii, cl. 3.

190. The register shall, on application being made to him, allow all persons to inspect the copies of deeds attested, endorsed, and filed in the manner prescribed in the preceding paragraph, as well as the register-books.—Reg. XX, 1812, sec. ii. cl. 4.

191. In like manner the register shall, on application being made to him, grant copies of all engagements registered by him to persons whom they may concern; and such copies, in the event of the originals being lost, destroyed, or not forthcoming, shall be received as sufficient evidence of such deeds in all courts of judicature whatever, proof being made by the subscribing witnesses to the original deed that the original was duly executed.—Reg. XX, 1812, sec. ii, cl. 5.

192. The register shall be allowed a fee of two rupees for every indigo engagement registered by him, to be paid by the party causing the same to be registered, and no more; a fee of one rupee for every copy furnished of a deed registered by him, to be paid by the party applying for such copy, and no more; and a fee of half a rupee for every search made on an inspection of the register-book, to be paid by the party inspecting the same, and no more. The register is authorized to refuse the official acts required from him until these fees be paid; and from such fees he shall provide the necessary native officers to make the entries and copies directed, as well as the requisite stationery.—Reg. XX, 1812, sec. iv.

193. *Such part of section viii, Regulation XXXVI, 1793, as requires that each leaf of the different register-books shall be attested by the judges of the zillah or city court, is hereby rescinded.* —Reg, XX, 1812, sec. vi, cl. 1.

194. In order to establish a proper control over the conduct of the public officers entrusted with the discharge of the duty of registering deeds, it is hereby enacted, that the endorsement on the copies required to be kept of the said deeds by the provisions of this Regulation, and the transcripts thereof in the register-book, shall be both countersigned by the judge of the Adawlut within one month of the date of registry, unless prevented by absence; and, in that case, within one month after his return.—Reg. XX, 1812, sec. vi, cl. 2.

195. On affixing his name to the copies of the deeds and to the register-books, it shall be the duty of the judge to report to the secretary to Government in the judicial department, for the information of the Governor-General in Council, any errors or irregularities, or any deviation from the established regulations, which he may have discovered in the conduct of the business confided to the register of deeds or to his native officers.—Reg. XX. 1812, sec. vi, cl. 3.

196. It shall be the duty of the registers to keep an accurate account, in the English language, of the fees received by them on account of the registry of deeds.—Reg. XX, 1812, sec. viii.

197. It shall likewise be the duty of the register to prepare, as soon after the expiration of each English year as possible, an index to the register-books.—Reg. XX, 1812, sec. ix.

198. The registers are also required, not only to preserve with care the powers of attorney which may be produced by persons attending on the behalf of others to procure deeds to be registered, but likewise to cause all such powers to be regularly entered in a separate book to be kept for that purpose.—Reg. XX, 1812, sec. x.

199. The deputy or officiating register appointed under Regulation IV, 1824, shall receive, during the time of his officiating, the fees authorized by the Regulations; but whenever the judge may perform the duty, under paragraph 162, the net amount of such fees, after defraying the necessary expense of the establishment, shall be carried to the credit of Government.—Reg. IV, 1824, sec vii.

200. Persons desirous of registering deeds written in any European language at any office of registry in the territories subject to the presidency of Bengal, shall be required to pay for transcribing the same according to the established rates of section writing, in addition to the fees prescribed by paragraph 186.—Reg. XXX, 1838, sec. v.

201 Deeds may be registered in any registry office, whether such office be in the district where the property or any part thereof to which such deeds relate is situated, or not.—Act IV, 1845, sec. i.

202. Provided always, that when the registry office in which a deed is registered is in a district in which the whole of the property to which such deed relates is not situated, it shall be the duty of the register of the said office to forward to the office of the district or districts in which the whole or any part of such property is situated, a copy of the deed as registered and endorsed in his office, the said copies to be furnished and attested as prescribed in paragraph 187, and the register of any office receiving such copy so forwarded shall duly register the same as if it had been presented to him in the first instance by the party registering.—Act IV, 1845, sec. ii.

203. For every such copy required for transmission to any office as aforesaid the party registering shall pay the usual fee, and the register receiving the same shall duly account for the same to the several registers to whose offices copies may be transmitted for registry.—Act IV, 1845, sec. iii.

204. The register-books of offices established under Act XXX, 1838, shall be deposited, in the Lower Provinces of the presidency of Bengal, among the records of the magistrates or joint

magistrates, and in the North Western Provinces of the said presidency, among the records of the collectors of the stations where such offices have been or shall be established.—Act XI, 1851.

*Effects of Registration.*

205. It shall be left to the option of all persons to register or not, as they may think proper, any of the descriptions of deeds specified in paragraph 165, that have been executed, or which may be executed, prior to the 1st of January, 1796. The not registering such deeds shall in no wise operate to the prejudice of the rights of the parties thereto, which shall remain the same as if this Regulation had never been enacted.—Reg. XXXVI, 1793, sec. iv.

206. It shall also be left to the option of all persons to register or not, as they may think proper, the several descriptions of deeds specified in clauses 4, 5, and 6 of paragraph 165, whether executed previous or subsequent to the first January, 1796. The not registering of the deeds specified in those three clauses shall in no wise operate to the prejudice of the rights of the parties thereto, which shall remain the same as if this Regulation had never been enacted.—Reg. XXXVI, 1793, sec. v.

207. Every deed of sale or gift, of the description specified in clause 2, paragraph 165, executed on or after the 1st January, 1796, and a memorial of which shall be duly registered according to this Regulation, shall, provided its authenticity be established to the satisfaction of the court, invalidate any other deed of sale or gift for the same property, executed subsequent to the said date, which may not have been registered, and whether such second or other deed shall have been executed prior or subsequent to the registered deed.—Reg. XXXVI, 1793, sec. vi, cl. 1.

208. Every deed of mortgage of the description specified in clause 3, paragraph 192, executed on or after the 1st January, 1796, and a memorial of which shall be duly registered according to Regulation XXXVI, 1793, and provided its authenticity be established to the satisfaction of the court, shall be satisfied in preference to any other mortgage on the same property executed subsequent to the said date, which may not have been registered, and whether such second or other mortgage shall have been executed prior or subsequent to the registered mortgage.—Reg. XXXVI, 1793, sec. vi. cl. 2.

209. It being the object, however, of the rules in the two preceding paragraphs, to prevent persons being defrauded by purchasing or receiving in gift, or taking in mortgage, real property which may have been before sold, given, or mortgaged, subsequent to the 1st January, 1796, and as persons can never suffer such imposition when they are apprized of the previous transfer or mortgage of the property, it is to be understood, that if any person shall purchase, receive in gift, or take in mortgage, any real property, knowing such property to have been previously sold, given, or mortgaged to any other person subsequent to the 1st January, 1796, and that the deed of sale, gift, or mortgage has not been registered, and shall register his own deed, in such case the deed of sale, gift or mortgage of such subsequent purchaser, donee, or mortgagee, which may have been registered, shall not from the registry of it invalidate, or be discharged in preference to the unregistered deed of sale, gift, or mortgage, first executed, provided the authenticity of the latter be established to the satisfaction of the court.—Reg. XXXVI, 1793, sec. vi. cl. 3.

NOTE.—This section is inoperative for the future under Acts I and XIX, 1843.

210. Regulation XXXVI, 1793, is in force from the 1st January, 1796, till the 1st of May, 1843.—Reg. XXXVI, 1793, sec. xvi; Act I, 1843.

211. The registry of all deeds which may have been hitherto duly executed by a zillah or city judge, or other covenanted servant, with his sanction in the absence of the register, is declared to be of equal validity, as if it had been executed by the zillah or city register.—Reg. IV, 1824, sec. vi.

212. Whereas clause 3, section vi, Regulation XXXVI, 1793, (paragraph 209), provides that registered conveyances and other instruments affecting titles to land and other interests therein shall not take precedence of unregistered conveyances and instruments in cases where the party registering shall have known of the existence of such unregistered conveyances or other instruments. And whereas a complicated system of law has arisen out of the construction which is to be given to the provisions regarding the knowledge of parties, or notice had by them in such cases; And whereas much perjury has been committed in investigations touching the fact of such notice or knowledge, and much of the time of the courts has been occupied with such investigations; And whereas in consequence of forgéries, perjuries, fraudulent concealments, and other practices, no person purchasing or advancing money on the security of land can safely rely on the conveyances or other instruments affecting the title to such land or other interest therein affording, by means of their being registered, a security against conveyances or instruments being set up, as of previous date, by unregistered claimants.—Act I, 1843. Preamble.

213. It is hereby enacted that all provisions contained in any Regulation or Regulations, touching such knowledge or notice as aforesaid of previous unregistered conveyances or instruments affecting titles to land or other interests therein, shall be repealed from the 1st day of May, 1843,

[and every conveyance or other instrument affecting title to land, or any interest in the same authorised by those codes respectively, to be registered, shall, so far as regards any lands to which the same relate, be void as against any person claiming under any subsequent conveyance or other instrument duly registered, unless the prior conveyance or instrument shall have been duly registered before the registration of the subsequent conveyance or instrument; any alleged notice or knowledge of such prior conveyance or instrument notwithstanding. Provided always, that this Act shall not be construed to extend to any conveyance or other instrument made before the 1st day of May, 1843.]—Act I, 1843.

214. Act I, 1843, is repealed, except in so far as it repeals all provisions contained in any Regulation or Regulations, touching the knowledge or notice had by parties to registered conveyances and other instruments affecting titles to land and other interests therein, of the existence of unregistered conveyances or other instruments affecting such titles or other interests therein.—Act XIX, 1843, sec. i.

215. From the 1st day of May, 1843, every deed of sale, or gift of lands, houses, or other real property, a memorial of which has been or shall be duly registered according to law, shall, provided its authenticity be established to the satisfaction of the court, invalidate any other deed of sale or gift for the same property which may not have been registered, and whether such second or other deed shall have been executed prior or subsequent to the registered deed; andfrom the said day every deed of mortgage on land, houses, and other real property, as well as certificates of the discharge of such incumbrances, a memorial of which has been or shall be duly registered according to law, and provided its authenticity be established to the satisfaction of the court, shall be satisfied in preference to any other mortgage on the same property which may not have been registered, and whether such second or other mortgage shall have been executed prior or subsequent to the registered mortgage, any knowledge or notice of any such unregistered deed or certificate alleged to be had by any party to such registered deed or certificate notwithstanding. Provided always, that nothing in this paragraph contained shall be construed to extend to any deed or certificate made before the said 1st day of May, 1843.—Act XIX, 1843, sec. ii.

216. No conveyance or other instrument affecting title to land, or any interest in the same, whether made before or after the said 1st day of May, 1843, other than such deeds or certificates as aforesaid, are or shall be in any respect void for want of registration, any Act, Regulation, or law to the contrary notwithstanding.—Act XIX, 1843, sec. iii.

217. A memorial of any deed shall be held to be duly registered according to law, in respect to any property which may be situated in any one district, as soon as the original deed or a copy thereof (as the case may be) shall have been registered in the manner provided by secs. i and ii of Act IV, 1845, (paragraphs 201 and 202) in the registry office of such district, whether or not a copy thereof have been registered in all or any of the other districts, in which the property to which the deed relates may be situated.—Act IV, 1845, sec. iv.

218. Whereas instances have occurred of persons exercising the office of register of deeds who have not been duly appointed, and whereas in some cases registration of deeds has been made on other than court days, that is, on days other than those on which the Zillah or City Courts has been open for business, and doubts may therefore arise as to whether the registration of any deed registered by such persons not duly appointed, or registered on other than a court-day, is valid in law, it is enactedas follows.—Act XVIII, 1847, Preamble.

219. Acts which may have been done in that capacity in any zillah, subject to the presidency of Bengal, by persons who have had charge of the office of register of deeds without being duly appointed to the said office, shall be and shall be taken to have always been as valid in law as such acts would have been if the said persons had been duly appointed to have charge of the said office. —Act XVIII, 1847, sec. i.

220. All acts which may have been done on other than court days by the register of deeds, or by the person having charge of the office without being duly appointed, in any zillah subject to the presidency of Bengal, shall be and shall be taken to have always been as valid in law as such acts would have been if they had been done on a court day.—Act XVIII, 1847, sec. ii.

*Duties of Cauzies of Towns in respect of Deeds.*

221. Cauzies are stationed at the cities of Patna, Dacca, and Moorshedabad, and the principal towns, and in the pergunnahs, for the purpose of preparing and attesting deeds of transfer and other law papers.—Reg. XXXIX, 1793. Preamble.

222. The head cauzy and the cauzies stationed in the cities, pergunnahs, and towns, are to keep copies of all deeds, and law or other papers, which they may draw up or attest, and are to affix thereto their seals and signatures. They are likewise to keep a list of all such papers; and in the event of their death, resignation, or removal, the list and papers are to be delivered complete to their successors.—Reg. XXXIX, 1793, sec. vii.

223. The cauzies stationed in the cities, towns, and pergunnahs, are not to exact any fees for drawing up or attesting papers, or for the celebration of marriages, or the performance of any religious duties or ceremonies which it has been customary for them to perform; excepting such as the parties concerned may voluntarily agree to pay, as has been hitherto the practice.—Reg. XXXIX, 1793, sec. viii.

### TREASURE TROVE.

224. Whenever any hidden treasure, consisting of gold or silver coin, or bullion, or of precious stones, or other valuable property, may be found buried in the earth, or otherwise concealed within any part of the territory subject to this presidency, and after due notification the owner thereof may not be discoverable, such hidden treasure shall become the property of the person or persons who may have found the same, provided it shall not exceed in amount or value the sum of one lac of rupees; and provided the finder or finders shall have conformed to the rules prescribed in this Regulation.—Reg. V, 1817, sec. ii.

225. Whenever any person may find hidden treasure, of the description stated in the foregoing paragraph, he shall give immediate notice thereof to the judge of the zillah or city in which the treasure may have been found, and shall at the same time deposit the treasure in the Zillah or City Court, with an exact inventory thereof.—Reg. V, 1817, sec. iii.

226. The zillah or city judge receiving a deposit as above directed shall return a receipt for the treasure deposited, after causing the same to be carefully compared with the inventory, and shall issue a public notification in the current languages of the country, to be published and affixed in his own cutcherry, and in the cutcherry of the collector of the district, requiring all persons who may have any claim of right to the treasure in deposit, to attend in person, or by vakeel, and prove their title thereto, within six months from the date of the notice.—Reg. V, 1817, sec. iv.

227. It shall be the duty of the collectors of land revenue acting under the instructions of the Boards of Revenue, to bring forward and to support, in conformity with the foregoing provision, any claim of right which Government may appear to possess to such treasure. In the event of any claim of right being preferred, either on the part of individuals or of Government, pursuant to the prescribed notification, the judge shall institute a summary inquiry into the claim preferred, and if the title of Government, or other person so claiming the treasure in deposit, or any part thereof, be clearly established, he shall adjudge the same accordingly, subject to reimbursement of all expense incurred by the finder of the treasure, as well as to such compensation for the discovery of it as may in such case appear just and reasonable.—Reg. V, 1817, sec. v.

228. If no claim of right be preferred either by Government, or by an individual, within the period limited by the notification directed in paragrah 223, or if the claim or claims so preferred shall not on a summary inquiry appear to be well founded, and the amount or value of the hidden treasure found at the same time, or in the same place, shall not exceed one lac of rupees, the zillah or city judge shall adjudge the same to the person or persons who may have discovered the treasure, and deposited it in the Zillah or City Court, as required by paragraph 221, subject only to the actual expense which may have been incurred in adopting the measures prescribed by this Regulation.—Reg. V, 1817, sec. vi.

229. If the amount or value of any hidden treasure found at the same time, or in the same place, shall exceed one lac of rupees, and no claim of right thereto be established, judgment shall be given according to the preceding paragraph, in favour of the person or persons who may have discovered and deposited this treasure, to the amount of one lac of rupees, and the excess above that sum shall be declared at the disposal of Government.—Reg. V, 1817, sec. vii.

230. If any person discovering hidden treasure of the description specified in paragraph 221 shall not, within one month after finding the same, give notice to the judge of the Zillah or City Court, in conformity with paragraph 223, and make the deposit thereby required, he shall be considered to have forfeited all right and title to the treasure, as well as all claim to a reimbursement of expense, compensation or reward, under the provisions of this Regulation, and the treasure so clandestinely withheld from public investigation shall, on a summary suit by any subsequent claimant of right, and proof of a just title thereto, be adjudged to the legal owner with interest and costs, or if no private claim be established, shall, on the application of the vakeel of Government, under instructions from the Boards of Revenue, be liable to confiscation to Government.—Reg. V, 1817, sec. viii.

231. The summary decision of the judges of the Zillah and City Courts, which may be passed under this Regulation, shall be open to a summary appeal to the Sudder Dewanny Adawlut, provided that court shall, on the face of the decree, or on inspection of any documents exhibited with it, see just and sufficient ground for admitting a second summary appeal to that court; in which case only such further appeal may be admitted and proceeded upon under the general rules in force for summary appeals.—Reg. V., 1817, secs. ix and x.

# CIVIL JUDICATURE.

## PLEADERS.

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| XXVII. ii. | | Unnecessary; only rescinds |
| iii., 1 | 1 | |
| iii., 2 | | Superseded by Reg II, 1833 |
| iii., 3 | | Superseded by sec. i, Act I, 1846 |
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| v., 2 | | Superseded by sec. ii, Reg. XVIII, 1817 |
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| xxx.<br>1832. VII xi. | | Repealed by sec. i, Act I, 1846 |
| 1846. I. i., ii., iii. | | Unnecessary; only repealing enactments |
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| xii. | | Relates to Madras only |
| 1850. XXX. i | | Unnecessary |
| 1852. XVIII. i. | | Incorporated with the sections therein referred to |
| ii. to vii. | 69 to 74 | |
| 1853. XX. i. | | Unnecessary; only repeals |
| ii. to iv. | 21, 25, 4, 5 | |

# CIVIL JUDICATURE.

## PLEADERS.

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NOTE.—There being no enactment rescinding or transferring to any other authority the control in respect of the appointment and removal of pleaders assigned to the provincial courts, the Sudder Dewanny Adawlut has been substituted in the following rules according to an analogy in secs. iii and v, Reg. II, 1833. (RULES COMMON TO COURTS OF ORIGINAL AND APPELLATE JURISDICTION, paragraphs 1 and 2.)

### GENERAL RULES.

1. THE Sudder Dewanny Adawlut and the several Zillah Courts are empowered to appoint to the office of vakeel in their respective courts, such a number of persons, being natives of India, and duly qualified for the situation, as may from time to time appear to them to be necessary.—Reg. XXVII, 1814, sec. iii, cl. 1.

2. The office of pleader in the courts of the East India Company shall be open to all persons of whatever nation or religion, provided that no person shall be admitted a pleader in any of those courts unless he have obtained a certificate, in such manner as shall be directed by the Sudder Courts, that he is of good character and duly qualified for the office, any law or regulation to the contrary notwithstanding.—Act I, 1846, sec. iv.

3. Provided nevertheless, that every barrister of any of Her Majesty's courts of justice in India shall be entitled as such to plead in any of the Sudder Courts of the East India Company; subject, however, to all the rules in force in the said Sudder Courts applicable to pleaders, whether relating to the language in which the court is to be addressed or to any other matter.—Act I, 1846, sec. v.

4. Every attorney on the roll of any of Her Majesty's Supreme Courts of Judicature in India shall be entitled as such to plead in any of the Sudder Courts of the East India Company, subject however to all the rules for the time being in force in the said Sudder Courts respectively, applicable to barristers pleading therein, whether relating to the language in which the court is to be addressed or to any other matter.—Act XX, 1853, sec. iii.

5. That part of paragraph 2, which provides that no person shall be admitted a pleader in any of the Courts of the East India Company, unless he have obtained a certificate in such manner as shall be directed by the Sudder Courts that he is of good character and duly qualified for the office, shall not extend to barristers or attornies of any of the supreme courts; but every such barrister and attorney shall be entitled as such to plead in any of the courts of the East India Company, subordinate to the Sudder Courts, subject to all the rules in force in the said subordinate courts respectively applicable to pleaders therein, so far as such rules relate to the language in which the court is to be addressed or to any other matter connected with pleadings therein.—Act XX, 1853, sec. iv.

6. Persons who may be appointed to the office of vakeel in the Zillah and City Courts, or the Sudder Dewanny Adawlut, shall receive a sunnud of appointment duly authenticated by the court to which they may be respectively attached. This sunnud which is not required to be written on stamped paper, shall be drawn up according to the following form.

"In conformity with the provisions of *Regulation XXVII, 1814*, you, A, B., are hereby appointed to the office of pleader in the Sudder Dewanny Adawlut, or in the Zillah or City Court of ———. You will not be liable to be removed from your situation so long as you may conduct yourself with propriety, and discharge your duty with zeal and integrity, under the rules contained in the Regulations which now are, or may hereafter be in force."—Reg. XXVII, 1814, sec. iv, cl. 1.

7. Whenever a vakeel may be dismissed from his office, or may die, or may resign his situation, his sunnud of appointment shall be recalled and cancelled by the court to which such vakeel may have been attached.—Reg. XXVII, 1814, sec. iv, cl. 2.

8. Every vakeel previously to being allowed to practise shall make and subscribe before the court to which he may be appointed an oath or a solemn declaration according to the following form.

"I, A. B., solemnly swear (or declare) that I will truly and faithfully execute the duties of pleader of the Sudder Dewanny Adawlut, or the Adawlut of the zillah or city of ———, to the best of my knowledge and judgment."—Reg. XXVII, 1814, sec. v, cl. 1; Reg. XVIII, 1817, sec. ii.

9. Except in the Lower Provinces, pleaders employed in the several Courts of Civil Judicature, shall be liable to dismission from their office whenever they may be guilty of encouraging or promoting litigious suits, of wilfully delaying the suits of their clients for their own advantage, of refusing or omitting, without sufficient cause to be shown to the court, to carry on the suits of their clients after having accepted a vakalutnamah, or of fraudulent practices, neglect, or other misconduct in the discharge of their professional duty, or of gross profligacy or misbehaviour in their private conduct.—Reg. XXVII, 1814, sec. vi, and Act XVIII, 1852, sec. i.

10. Except in the Lower Provinces, the vakeels are required to use due precaution to ascertain the real names and the identity of persons who may propose to employ them as pleaders; and any authorised vakeel who shall hereafter receive and file a vakalutnamah from any person under a fictitious name, shall be liable to be dismissed from his office. Provided, however, that the judge upon full inquiry into the circumstances of the cause shall deem him to be deserving of such punishment.—Reg. XXVII, 1814, sec. viii, and Act XVIII, 1852, sec. i.

11. The vakeels are enjoined not to file any plaint, answer, or other pleading, without previously ascertaining that such pleading has been duly prepared in conformity with the Regulations; that it contains no unnecessary repetitions of former pleadings, no terms of personal abuse or reproach against the opposite party, his vakeels, witnesses, or other persons, and no groundless imputations on any court of justice or public officer, but that it contains such matter only as is apparently material and relevant to the suit. Every pleading filed by an authorised vakeel shall be signed by him in testimony of his having considered and approved its contents.—Reg. XXVII, 1814, sec. ix, cl. 1.

12. In order that the expense, trouble, and inconvenience frequently experienced by filing irrelevant exhibits, and by summoning useless witnesses may be avoided, the vakeels are hereby further required to examine the documents which their constituents may propose to exhibit in proof of their claims, previously to their being filed in court; and to ascertain from their constituents, previously to summoning any witnesses, the specific points which such witnesses are expected to prove by their testimony.—Reg. XXVI, 1814, sec. ix, cl. 2.

13. Except in the Lower Provinces, the courts will carefully point out to the notice of the vakeels such parts of the pleadings as are evidently irregular, irrelevant, or otherwise objectionable, and shall record their censure of any vakeel whose conduct in opposition to the preceding rules may in any particular instance demand such animadversion. If, notwithstanding such recorded censure, a vakeel shall again be guilty of similar misconduct, he shall be liable in each instance to such fine to Government, not exceeding twenty rupees, as the court may deem it proper to impose. —Reg. XXVII, 1814, sec. ix, cl. 3, and Act XVIII, 1852, sec. i.

14. Except in the Lower Provinces, the Sudder Dewanny Adawlut and the several Zillah Courts will, at all times, exercise their discretion in removing from his office any pleader of their respective courts who may be guilty of any of the acts above mentioned, or who may be otherwise deemed unfit for the situation.—Reg. XXVII, 1814, sec. x, cl. 1, and Act XVIII, 1852, sec. i.

15. Except in the Lower Provinces, whenever a zillah or city judge shall be of opinion that a vakeel attached to his court, or any of the sudder ameens, is unfit for the situation, in consequence of his having been guilty of any of the acts mentioned in the preceding paragraphs or that he is otherwise disqualified for the office of pleader, the judge shall report the circumstances of the case, together with his own opinion upon it, to the Sudder Dewanny Adawlut, who will pass such orders on the case as may appear to be proper, or will call for any additional information, or direct any further inquiry that the nature and circumstances of each case may appear to demand. —Reg. XXVII, 1814, sec. x, cl. 2, and Act XVIII, 1852, sec. i.

16. Except in the Lower Provinces, the zillah and city judges are empowered to suspend from his office any pleader attached to their courts who may be guilty of any gross act of fraud or misconduct; but, in such instances, it shall be the duty of the judge to report the circumstances of the case, with as little delay as possible, for the information and orders of the Sudder Dewanny Adawlut.—Reg. XXVII, 1814, sec. xi, and Act XVIII, 1852, sec. i.

17. Except in the Lower Provinces, every vakeel, or authorized pleader or mooktar, attached to any court of judicature, who shall present for the purpose of being filed or recorded in any court or cutcherry, any paper, petition, or any deed, instrument, or document requiring to be stamped by the rules of Regulation X, 1829, on unstamped paper, or on paper not bearing the proper stamp, and not duly endorsed, or on paper bearing a counterfeit stamp, unless signed and endorsed by a vendor as prescribed, shall forfeit five times the amount of the stamp which ought to have been used, or five times the difference in case of the use of improper stamps, as prescribed in section xiii, Regulation X, 1829. The said fine shall be imposed and levied by the presiding officer of the court in which the said vakeel or mooktar may be practising, and the amount shall

be remitted to the collector with copy of the proceedings or order imposing the fine.—Reg. X, 1829, sec. xviii, cl. 1, and Act XVIII, 1852, sec. i.

18. Except in the Lower Provinces, it shall further be competent to the collector or other officer exercising similar powers, on discovery of any irregularity of the above description, not noticed on the proceedings of the court, to move the court by petition, to be presented to the judge of the zillah within whose jurisdiction such vakeel or other person so offending may be practising, for infliction of the above fine, when incurred in any court within the zillah or city jurisdiction, or if the vakeel so offending be an officer of the Sudder Dewanny Adawlut, then the collector shall make application to that court through the vakeels of Government attached thereto, and the case shall be tried and adjudged by the zillah judge, or by the judges of the superior court, and their decision respectively, as to whether the penalty has been incurred or not, shall be final.—Reg. X, 1829, sec. xviii, cl. 2, and Act XVIII, 1852, sec. i.

19. The parties in a cause are authorized to prosecute their respective pleaders in the Civil Courts of Judicature for any damages or injury which they may have sustained from any breach of the Regulations on the part of their pleaders, or from any fraudulent conduct or malpractices committed by their pleaders regarding the suit.—Reg. XXVII, 1814, sec. xii, cl. 1.

20. Any party in a suit who may be dissatisfied with the conduct of his pleader, shall be at liberty, at any stage of the trial previously to the decision, to withdraw the power delegated to his pleader and to appoint another vakeel to plead the cause. In such cases, the party is to present a petition to the court, notifying that he has withdrawn the management of the suit from such pleader, and is to file a new vakalutnamah in the name of the pleader whom he may appoint to carry on the suit. All acts, however, which may have been done by the first pleader on the part of his client, previously to his having been dismissed are to be held valid.—Reg. XXVII, 1814, sec. xii, cl. 2.

21. Except in the Lower Provinces if a pleader employed in any business to be transacted on that day should be unable to attend the court in consequence of indisposition or other sufficient reason, he is to notify the same in writing to the court on unstamped paper, and the hearing of any cause in which such pleader may be employed is to be postponed to a future day, unless the party or his authorized agent shall commit the management of the cause to any other pleader of the court, or unless the party himself shall be present and willing to plead the cause in person. If the management of the cause shall be entrusted to any other pleader of the court, instead of filing a new vakalutnamah, it shall be sufficient for the party or his mokhtar duly authorized, to endorse on the back of the original vakalutnamah a written declaration that he has appointed some other vakeel of the court to conduct the cause, either permanently or during the absence of the pleader first appointed.—Reg. XXVII, 1814, sec. xiii; Act XVIII, 1852, sec. i, and Act XX, 1853, sec. ii.

22. Except in the Lower Provinces, if a pleader employed as above shall fail to attend in court on any day fixed for the transaction of civil business, and shall omit to notify in writing to the court his inability to attend, in consequence of indisposition or other sufficient cause, the court is authorised to impose on such pleader a fine for the first offence not exceeding the sum of fifty rupees, and for the second offence not exceeding one hundred rupees. If such pleader shall be guilty of a similar offence a third time, he shall be liable to dismission from his office.—Reg. XXVII, 1814, sec. xiv, cl. 1, and Act XVIII, 1852, sec. i.

23. Except in the Lower Provinces, if any pleader shall be guilty of disrespect to the court, in open court, the court is empowered to impose a fine upon him not exceeding the sum of one hundred rupees.—Reg. XXVII, 1814, sec. xiv, cl. 2, and Act XVIII, 1852, sec. i.

24. Except in the Lower Provinces, all orders imposing fines on pleaders which may be passed by the judges of the Zillah and City Courts, in conformity with this Regulation, shall be final; and the amount of the fines shall be levied either by a deduction from the fees which may become due to the offender, or by the process which is prescribed for the execution of decrees.—Reg. XXVII, 1814, sec. xv, cl. 2, and Act XVIII, 1852, sec. i.

25. No pleader shall be bound to attend in any of the courts of the East India Company, on any day fixed for the transaction of civil business, or to notify to the court his inability to attend, unless he shall be employed in some cause or business, which according to the practice of the court, may be heard or transacted therein on that day, anything in any law or regulations to the contrary notwithstanding.—Act XX, 1853, sec. ii.

26. Whenever a vakeel attached to a Zillah or City Court may die or may be removed from his office, or may voluntarily resign his situation, the judge of such zillah or city shall notify the same in a publication to be affixed in his own cutcherry, and in the cutcherries of the several courts, and the collector of the district. The publication shall contain a statement of the several depending cases in which such vakeel may have been employed, and a requisition to the parties who have retained such vakeel to attend in person, or to substitute another vakeel in room of the pleader formerly appointed by them, within a reasonable period to be affixed by the court, not being less than six weeks. In such instances, instead of filing a new vakalutnamah, it shall be

sufficient for the party or his mookhtar duly authorised to endorse on the back of the original vakalutnamah a written declaration, that he has appointed some other vakeel of the court in lieu of the pleader who may have died or resigned his office, or have been removed from his situation. —Reg. XXVII, 1814, sec xviii, cl. 1.

27. A publication issued in conformity with the preceding rules shall be held and considered to be a good and sufficient notice; and if any party shall not attend or appoint another vakeel within the period limited in the publication, he shall be required to show cause for the omission, and if sufficient cause be not assigned, the court shall proceed as in case of default in conformity with the provisions in force.—Reg. XXVII, 1814, sec. xviii, cl. 2.

28. A similar notification shall be issued on the death, resignation, or removal of any pleader attached to the Sudder Dewanny Adawlut. If the pleader shall have been attached to the Sudder Dewanny Adawlut, the publication shall be affixed in that court, and in such of the Zillah and City Courts, in which it may appear necessary to publish the same, with reference to the depending causes in which the vakeel may have been employed, and the period to be allowed to parties to appear and substitute another vakeel shall not be less than three months.—Reg. XXVII, 1814, sec. xviii, cl. 3.

29. The courts are authorized to apply the principle of the preceding rules to cases in which the decision of suits may be materially delayed by the protracted indisposition of a pleader, or by his continued inability to attend the court from any other cause which may be expected to be permanent or of considerable duration.—Reg. XXVII, 1814, sec. xviii, cl. 4.

30. The Courts of Civil Judicature are empowered to permit any of the authorized vakeels of their respective courts to be arbitrators in depending suits, subject to the several rules and provisions in force for referring suits to arbitration.—Reg. XXVII, 1814, sec. xix.

31. The authorized vakeels of the Sudder Dewanny Adawlut, and of the Zillah and City Courts, are empowered to receive fees for legal opinions under the provisions contained in the following paragraphs.—Reg. XXVII, 1814, sec. xx, cl. 1.

32. Any person who may be desirous of obtaining the opinion of an authorized pleader regarding the legal validity and sufficiency of any claim, right, or title which he may suppose himself to possess, and on the consequent expediency of prosecuting or defending either originally or in appeal, such supposed claim, right, or title in the Courts of Civil Judicature, may submit a written statement of his claim, under his seal, signature or mark, to the pleader whose opinion he may wish to obtain.—Reg. XXVII, 1814, sec. xx, cl. 2.

33. The pleader to whom such statement may be submitted, after an attentive consideration of the laws, regulations, usages, or precedents which may be applicable to the case, and of the arguments and proofs which may be adduced in support of the claim, shall furnish to the party, under his signature, a written declaration of his opinion, and of the grounds upon which that opinion may be formed.—Reg. XXVII, 1814, sec. xx, cl. 3.

34. Provided, however, that it shall not be lawful for any pleader who may have received a vakalutnamah in any suit instituted in a Court of Civil Judicature to receive the fee on account of any legal opinion which he may subsequently furnish to his constituent respecting any subject or question connected with such suit.—Reg. XXVII, 1814, sec. xx, cl. 5.

35. Any pleader who under the preceding rules may knowingly furnish an opinion of a nature evidently calculated to promote the institution of unfounded or litigious suits, or to discourage the amicable adjustment of dubious claims, shall be liable to be dismissed from his office.—Reg. XXVII, 1814, sec. xx, cl. 6.

36. When a party in a cause may be desirous of retaining a vakeel for the prosecution or defence of any civil suit, he shall not be required to pay to such vakeel the retaining fee of four annas heretofore prescribed, but he shall execute to him a vakalutnamah, constituting him pleader in the cause, and authorising him to prosecute or defend the suit, and further binding himself to abide by and to confirm all acts which such pleader may do or undertake in his behalf in the cause, in the same manner as if such party had been personally present and consenting. The party is to attest the instrument with his seal or signature, or with his mark if he cannot write, in the presence of two credible witnesses, who are likewise to attest it in the same manner, and who are to attend the court and prove the vakalutnamah in all cases in which it may be judged requisite.—Reg. XXVII, 1814, sec. xxi, cl. 1.

37. Such vakalutnamahs are to be written on the stamped paper prescribed in No. 6, Sched. B, Reg. X, 1829, but shall not be liable to the stamp duty on exhibits under No. 5 of the same Schedule.—Reg. XXVII, 1814, sec. xxi, cl. 2.

38. When a vakeel to whom a vakalutnamah may have been executed under the last two preceding paragraphs, shall consent to undertake the prosecution or defence of the suit, he shall affix his signature to the back of the vakalutnamah, together with the date on which such signature may be affixed, and shall thenceforward be precluded from being employed in the same cause against the party who may have so retained him.—Reg. XXVII, 1814, sec. xxii.

39. *First. In all regular suits which may be instituted, either originally or in appeal, subsequently to the 1st of February, 1815, in any of the Zillah or City Courts, or the Sudder Dewanny Adawlut, the vakeels employed by the respective parties are to be allowed for pleading the causes of their clients the rates of fees calculated as follows:—*

*In suits for money, effects, or for other personal property, or for land or other immoveable property of any description, if the amount or value of the claim estimated according to the provisions of Regulation X, 1829, shall not exceed 5,000 rupees, five per cent.*

*If the amount or value shall exceed 5,000 rupees, and shall not exceed 20,000 rupees, on 5,000 as above, and on the remainder two per cent.*

*If the amount or value shall exceed 20,000 rupees, and shall not exceed 50,000 rupees on 20,000 as above, and on the remainder one per cent.*

*If the amount or value shall exceed 50,000 rupees, and shall not exceed 80,000 rupees, on 50,000 as above, and on the remainder eight annas per cent.*

*If the amount or value shall exceed 80,000 rupees, the fee to the vakeel shall be 1,000 rupees, and shall in no instance exceed that sum, however great may be the value or amount of the suit in which such vakeel may be employed.*

*Second. In all the preceding calculations, where the amount or value may be in fractions of rupees, such fractions are to be rejected in calculating the fees thereupon.*

*Third. The vakeels are to receive the full amount of their fees without any deduction whatsoever; provided nevertheless, that for every sum which may be paid to a vakeel by a civil court on account of his fees, such vakeel shall give a receipt written on the stamped paper prescribed in No. 45, Sched. A, Reg. X, 1829.*—Reg. XXVII, 1814, sec. xxv.

40. The preceding paragraph shall not be enforced except for the purposes specified in the following paragraph.—Act I, 1846, sec. vi.

41. Parties employing authorized pleaders in the said courts shall be at liberty to settle with them by private agreement the remuneration to be paid for their professional services, and it shall not be necessary to specify such agreement in the vakalutnamah; provided that when costs are awarded to a party in any regular suit, original or appeal, decided on the merits, against another party, the amount to be paid on account of fees of pleaders shall be calculated according to the rules contained in paragraph 39; and when costs are awarded in other cases, the amount to be paid on account of such fees shall be one-fourth of what it would have been in a regular suit decided on its merits.—Act I, 1846, sec. vii.

42. Private agreements between parties and their pleaders respecting the remuneration to be paid for professional services shall not be enforced otherwise than by a regular suit.—Act. I, 1846, sec. viii.

43. Persons taking opinions from authorized pleaders, as provided in paragraphs 32 to 35, shall be at liberty to settle with them by private agreement the remuneration to be paid for such opinions.—Act I, 1846, sec. ix.

44. If the decree shall be given against the defendant or respondent, and the whole of the money or property which may be demanded by the appellant or plaintiff shall be decreed to him, a sum equal to the whole of the fees of his pleader shall be adjudged to the plaintiff or appellant, in addition to the other costs which may be awarded to him; but if only a part of the money or property claimed is decreed to the plaintiff or appellant, a sum bearing the same proportion to the money or to the value of the thing decreed, as the fee did to the demand stated in the plaint or appeal, is to be decreed and added to the costs which may be awarded to the plaintiff or appellant. —Reg. XXVII, 1814, sec. xxvi, cl. 1.

45. If the suit of the plaintiff or appellant shall be dismissed, whether upon an investigation of the merits or otherwise, the plaintiff or appellant is to be charged with the fees of his own pleader and with those of the defendant or respondent.—Reg. XXVII, 1814, sec. xxvi, cl. 2.

46. Provided, however, that if in any instance the payment of the pleader's fees, according to the preceding rules, should not appear to be just and equitable, the courts of civil judicature may exercise their discretion in charging the fees of the pleaders to the parties respectively, in such proportions as may appear equitable and proper, under a consideration of all the circumstances of the case.—Reg. XXVII, 1814, sec. xxvi, cl. 3.

47. The parties in a suit are respectively permitted to entertain two or more pleaders.—Reg. XXVII, 1814, sec. xxx, cl. 1.

48. It shall be sufficient in such cases, for the party employing two or more vakeels in the same suit, to file a single vakalutnamah—Reg. XXVII, 1814, sec. xxx, cl. 2.

49. The opposite party in the suit shall in no case be required to make good more than the fee of one of those pleaders, or such part of that fee as may be adjudged against him by the court. The fees of the other pleader are to be considered as a separate expense, to be defrayed exclusively by the party entertaining him, and for which he is not to be reimbursed in any case whatever.—Reg. XXVII, 1814, sec. xxx, cl. 3.

50. If a suit shall be withdrawn or dismissed on default without a determination upon the merits of the case before all the requisite pleadings shall have been filed in court, the respective pleaders of the plaintiff and defendants, or of the appellant and respondent, shall each be entitled to only one-fourth of the fee which they would have received, had the suit been brought to a regular decision by the court. If a suit should be withdrawn or dismissed on default after all the requisite pleadings shall have been filed in court, the respective pleaders are to be entitled to one-half the fees which they would have received if judgment had been given in the cause. The fees in both of the above-mentioned cases are to be charged to the plaintiff or appellant withdrawing the suit, or suffering it to be dismissed on default, together with all the admitted costs incurred by the defendant or respondent.—Reg. XXVII, 1814, sec. xxxi, cl. 1.

51. The same rule shall be considered applicable to cases adjusted by razeenamah; except that the fees of the pleaders and all other costs of the suit shall be paid by the parties, in such manner and proportions as may have been agreed upon and inserted in the razeenamah.—Reg. XXVII, 1814, sec. xxxi, cl. 2.

NOTE.—The two last foregoing rules are subject to the modifications declared in paragraphs 40 and 41.

52. Pleaders are to give written receipts on unstamped paper for all accounts, writings, or documents which may be delivered to them by their clients in the course of any suit or process. If a pleader shall refuse to return such accounts, documents, or writings, the court, upon a petition being presented to them for that purpose by the owners of the papers so withheld, shall cause them to be restored.—Reg. XXVII, 1814, sec. xxxvi.

53. One or more of the authorised pleaders of the Sudder Dewanny Adawlut, and the Zillah and City Courts, shall be appointed for the purpose of conducting the prosecution or defence of any suits in those courts respectively, which may be directed to be carried on at the public expense, by any Regulation or by a special order from the Governor-General in Council, or other authority competent to pass such order. Those pleaders shall be furnished with a sunnud or written authority to that purport, under the signature of the secretary to Government in the judicial department, and the sunnud shall be drawn up according to the following form:—

"In conformity with the provisions of Regulation XXVII, 1814, you, A. B., are hereby appointed to the office of pleader on the part of Government in the Sudder Dewanny Adawlut, or in the Zillah or City Court of ———. You will not be liable to be removed from your office so long as you may conduct yourself with propriety, and discharge your duty with zeal, ability, and integrity, under the Regulations which are now in force or which may hereafter be enacted."—Reg. XXVII, 1814, sec. xxxvii, cl. 1.

54. On the occasion of vacancies occurring in the office of the vakeels of Government in the courts of justice, those courts shall report to the secretary to Government in the judicial department the death, resignation, or removal of any such vakeels.—Reg. XXVII, 1814, sec. xxxvii, cl. 2; Reg. XIII, 1829, sec. iv, cl. 2.

55. It will rest with Government to ascertain by such inquiries as they may deem necessary, which of the constituted pleaders of the court is best fitted by his qualifications and character to succeed to the vacant office, and to appoint such individual accordingly.—Reg. XIII, 1829, sec. iv, cl. 3.

56. The pleaders for Government are to undertake all causes which they may be directed to plead by orders from Government, or which may be directed by any Regulation to be carried on at the public expense, upon receiving an order for that purpose, either from Government or from any officer or officers empowered by any Regulation to superintend and to furnish instructions for conducting such suits. The order of Government, or of such officer or officers, is to be filed in court as the authority of the pleader to plead the cause, and is to form part of the record of the proceedings.—Reg. XXVII, 1814, sec. xxxvii, cl. 3.

57. The pleaders of Government are prohibited from giving any advice to the parties opposed to Government in any civil suit or proceeding, and from being concerned directly or indirectly on their behalf, in suits which are directed to be carried on at the public expense; but in all other suits the pleaders of Government are to be at liberty to plead for either of the parties, in the same manner as the other authorized pleaders of the court.—Reg. XXVII, 1814, sec. xxxvii, cl. 4.

58. The pleaders for Government are to be paid the same fees in causes directed to be pleaded at the public expense, as pleaders employed in causes between individuals, and under the same rules and restrictions.—Reg. XXVII, 1814, sec. xxxvii, cl. 5.

59. In pleading suits directed to be carried on at the public expense, the pleaders for Government are to be subject to all the rules prescribed for their guidance when pleading on behalf of individuals, except in matters or cases in which it may be otherwise specially directed by any Regulation.—Reg. XXVII, 1814, sec. xxxvii, cl. 6.

60. The Boards of Revenue, or any other authorities intrusted with the management of suits on the part of Government, are empowered to associate with the established vakeel of Government

any other authorized pleader in cases in which such aid may, from the importance of the suit, or any other reason, be judged necessary or advisable. Such additional pleader shall be furnished with a vakalutnamah, duly authenticated by the officer or authority employing him, and shall be entitled to receive the same fees, and under the same rules and restrictions, as if he were employed on the part of an individual.—Reg. XXVII, 1814, sec. xxxvii, cl. 7.

61. No part of this Regulation is to be construed to prohibit or prevent any individual from appearing and pleading his own cause in person, in any of the courts of civil judicature, without employing an authorized pleader.—Reg. XXVII, 1814, sec. xxxviii.

62. The provisions of Regulation XXVII, 1814, are to be construed with reference to sections vii, x, and xv, of Regulation XXVIII, 1814 ("PROCEDURE ON THE TRIAL OF ORIGINAL SUITS," paragraphs 302, 303, 305, and 319), in suits where one or both of the parties may be permitted to plead in *formâ pauperis*, in conformity with the rules contained in that Regulation.—Reg. XXVII, 1814, sec. xxxix, cl. 2.

63. That the pleaders in the several courts, as well as all other persons, may have it in their power to render themselves acquainted with the Regulations enacted by the British Government, there shall be kept for public inspection in the several courts of judicature printed copies of all such Regulations, and of the translations in the native languages, bound up with the annual indexes. Until the Regulations which may be passed in each year are so bound up, the separate copies of each Regulation, with the translations which may be printed and circulated to the courts, are to be exposed as above directed. The Regulations are to be deposited upon a table expressly allotted for that purpose in some part of the court-room, and to lie for public inspection every day, Sunday excepted, during the ordinary hours of business, when the pleaders of the courts and all other persons are to be at liberty to refer to the Regulations, or take copies or extracts from them in the court-room. On receipt of the translations of the Regulations in the country languages, the several courts of civil justice shall cause the same to be publicly read in their cutcherries, and shall require the native pleaders of their respective courts to take copies of any of those translations which relate directly or indirectly to the administration of civil justice.—Reg. XXVII, 1814, sec. xl.

64. All causes referred to the sudder ameens shall be pleaded either by the parties in person, or by an authorized vakeel of the Zillah or City Court. The judges of the several zillahs and cities will assign to the court of each sudder ameen such a number of the authorized vakeels as may appear necessary. The whole of the Regulations in force regarding the authorized vakeels of the Zillah and City Courts shall be applicable to the authorized vakeels employed in the courts of the sudder ameens.—Reg. XXIII, 1814, sec. lxxii.

65. It shall be competent to the zillah and city judge to authorize any of the vakeels of his court, or of those attached to the sudder ameens, to practise in the court of the principal sudder ameen.—Reg. V, 1831, sec. xviii, cl. 3.

66. Except in the Lower Provinces, whenever a pleader has rendered himself liable to a fine in the court of a principal sudder ameen or sudder ameen, it shall be competent to such principal sudder ameen or sudder ameen to impose such fine; provided that an appeal from all orders imposing such fines shall lie to the zillah or city judge, whose decision thereon shall be final.—Act I, 1846, sec. x.

67. Except in the Lower Provinces the rules applicable to pleaders in the courts of the zillah and city judges shall be applicable, so far as they are capable of application, to pleaders in the moonsiffs' courts.—Act I, 1846, sec. xi.

68. Whenever a pleader has conducted himself in such a manner in the court of a moonsiff as would have rendered him liable to a fine if he had so conducted himself in the court of a zillah or city judge, it shall be competent to such moonsiff to impose such fine; provided that an appeal from all orders imposing such fines shall lie to the zillah or city judge, whose decision thereon shall be final.—Act I, 1846, sec. xii.

### RULES OPERATIVE IN THE LOWER PROVINCES ONLY.

69. Any pleader practising in the courts of the East India Company in the Lower Provinces, shall be liable to dismissal or proof of his conviction by a competent court of a criminal offence, or on proof of a declaration or finding by a competent court, in a suit or proceeding to which such pleader was a party, that he has knowingly committed a breach of trust, or for fraudulent or dishonest conduct in the discharge of his professional duty.—Act XVIII, 1852, sec. ii.

70. When a competent court has convicted a pleader of a criminal offence, or has declared or found, in a suit or proceeding to which such pleader was a party, that he has knowingly committed a breach of trust, the court competent to dismiss such pleader may make an order for his dismissal, on the production of an authenticated copy of the judgment or decision containing such conviction,

declaration, or finding, and on proof to the satisfaction of the court that such judgment or decision has not been set aside or reversed, and that the pleader is the party to whom such conviction or decision relates.—Act XVIII, 1852, sec. iii.

71. When any pleader is charged with fraudulent or dishonest conduct in the discharge of his professional duty, by any person or court, the court competent to make an order for his dismissal shall serve, or cause to be served, upon such pleader, a copy of the charge or charges brought against him, and also a notice of the day appointed by the said court for the hearing of such charge or charges, and such copy and notice shall be served upon the said pleader at least twenty clear days before the day appointed for such hearing: and on the hearing of the said charge or charges, the court shall receive all such relevant evidence as shall be properly tendered by or on behalf of the court or party bringing the charge or charges, or by the said pleader, and shall proceed to adjudicate on the said charge or charges in a summary way, and shall record its decision, and the reasons on which the same is grounded. Provided always, that the court which is competent to dismiss a pleader shall also be competent to bring a charge or charges and proceed against him as aforesaid, and may also hear and adjudicate upon such charge or charges in manner hereinbefore mentioned. Provided also, that the evidence of witnesses on such hearing shall be taken and made upon oath; and every witness who shall give false evidence at such hearing shall be liable, on conviction, to punishment for perjury, in like manner as witnesses examined in civil or criminal trials. —Act XVIII, 1852, sec. iv.

72. The power of dismissing pleaders practising in the Sudder Court of the said provinces is vested in the judges of that court; the power of dismissing pleaders practising in the courts of the zillah judges, or in courts subordinate to them, in the said provinces, is vested in the zillah judges respectively.—Act XVIII, 1852, sec. v.

73. An appeal from the order of any zillah judge for the dismissal of a pleader may be made to the Sudder Dewanny Adawlut, according to the rules in force for the admission of appeals.—Act XVIII, 1852, sec. vi.

74. It shall not be lawful for any of the said courts of the Lower Provinces of the said presidency to impose any fine on any pleader practising in the said courts, except such fine as may be imposed under the provisions of Act XXX, of 1841.—Act XVIII, 1852, sec. vii.

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# CIVIL JUDICATURE.

## STAMPS.

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# CIVIL JUDICATURE.

## STAMPS.

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### GENERAL RULES.

NOTE.—Regulation X, of 1829, rescinded the previous stamp Regulation I of 1814, and all such other existing rules as related to the "*imposition, levying, and collecting*" of stamp duties; but the Regulations enacted before X of 1829 contain some rules which do not appear to have been repealed, and which have no substitutes in the last mentioned Regulation or in the Schedules annexed thereto. Such rules are here placed before the existing Stamp Regulation. The rules passed after that Regulation follow.

1. ALL pleadings, petitions, and applications, all deeds, documents, and other papers, whether originals or copies, which are required by the Regulations to be written on stamped paper, are to be written in a fair legible manner, and as they have been hitherto usually prepared, as well with regard to the size of the writing, the space between the words, and the number of lines in each page, as to all other matters regarding their engrossment.—Reg. XXVI, 1814, sec. v, cl. 2.

2. If the subject matter of any plaint or petition of appeal cannot, under the rule contained in the preceding paragraph, be conveniently comprised in a single sheet or roll of the stamped paper prescribed for such plaint or petition of appeal, any additional sheets or rolls which may be required for that purpose shall be of the description of stamped paper specified in No. 9, Schedule B, Regulation X, 1829. In like manner, if the subject-matter of any answer, reply, rejoinder, or other pleading, cannot be comprised in a single sheet or roll of the stamped paper prescribed for such pleading, any additional sheets or rolls which may be required for that purpose shall be of the description of stamped paper specified in No. 9, Schedule B, Regulation X, 1829.—Reg. XXVI, 1814, sec. v, cl. 3.

3. Except in the Lower Provinces, if a party, or vakeel, or other person, shall hereafter file in a Zillah or City Court, or in the Sudder Dewanny Adawlut, any plaint or pleading required to be written on stamped paper, which may not have been prepared in conformity with the foregoing paragraphs, the court is authorised to impose on such party, vakeel, or other person, any fine which they may deem proper, provided that such fine shall in no instance exceed three times the amount or value of the additional stamped paper which would have been required had the plaint or pleading been drawn up in conformity with the foregoing provisions.—Reg. XXVI, 1814, sec. v, cl. 4, and Act XVIII, 1852, sec. i.

4. If the subject matter of any miscellaneous petition or application, or of other papers specified in Nos. 6 and 7 Schedule B, Regulation X, 1829, cannot, under the rule contained in paragraph 1, be conveniently comprised in a single sheet or roll of the prescribed stamped paper, any additional sheets or rolls which may be required for that purpose shall be of the value and description specified in the said numbers of the said Schedule; and if any such petition or paper, which may not have been prepared in conformity with the foregoing rule and with the rules contained in paragraph 1, shall be hereafter presented to any of the courts or officers specified in Nos. 6 and 7, Schedule B, Regulation X, 1829, such court or officer is hereby authorised to impose a fine on the party or person presenting, under the same limitations as are prescribed in the preceding paragraph.—Reg. XXVI, 1814, sec. v, cl. 5.

5. It is hereby declared, that it is not intended to preclude individuals from making for their private use, and at their own expense, copies of judicial or revenue papers, with the permission of the court, collector, or other public officer having charge thereof, on any paper which they may prefer; but if such copies be not made on stamped paper, they shall not be authenticated by the seal or signature of any court, collector, or other public officer, and shall not be received as evidence in any court of justice or in any public office whatever.—Reg. XXVI, 1814, sec. xvi, cl. 4.

6. Any ministerial officer who may hereafter file in any court of justice, or in the office of any collector or other public officer, without the written order of such officer, any petition, pleading, or other document required to be written on stamped paper, which may not have been written on the prescribed stamped paper, or who shall furnish a copy of any paper or proceeding required to be written upon stamped paper, or any other paper than the required stamped paper, shall be liable to dismission from office, and to the payment of a fine to Government equal to ten times the amount of the stamp duty which would have been payable if the prescribed stamped paper had been used for such petition, pleading, or other document.—Reg. XXVI, 1814, sec. xvii, cl. 1.

7. Such penalty shall be recoverable by a summary process in the Courts of Dewanny Adawlut.—Reg. XXVI, 1814, sec. xvii, cl. 2.

8. All authenticated copies of documents specified in paragraph 14, which may be prepared as legal vouchers by a cazee, mooftee, or other authorised person, shall be written on stamped paper according to the rates prescribed for the originals of such deeds; any copies not written on such paper will not be admissible in evidence under that paragraph.—Reg. XXVI, 1814, sec. xviii.

9. If, during the trial of any regular suit, it shall appear that the plaint has been written on stamped paper of a less value than that which ought to have been used under the provisions of No. 8, Schedule B, Regulation X, 1829, and the court shall be of opinion that the error or omission did not arise from any fraudulent motive, or from any design on the part of the plaintiff to evade the provisions of the Regulations, it shall be competent to the court, either to permit or to direct the plaintiff or appellant in the suit to file a duplicate of the plaint on stamped paper of such a value as may be sufficient to complete the full amount of the stamp duty prescribed by the Regulation above mentioned.—Reg. XXVI, 1814, sec. vii, cl. 1.

10. Whenever a party may be desirous of instituting an original suit as a pauper in any civil court, he shall appear in person before such court, and shall present a petition written on the stamped paper prescribed for miscellaneous petitions in No. 7, Schedule B, Regulation X, 1829.—Reg. XXVIII, 1814, sec. v, cl. 1.

11. The stamp duty which has been substituted for the institution fee by Regulation X, 1829, shall not be required from plaintiffs who may be admitted to sue as paupers. The plaint, reply, or other pleadings on the part of the plaintiff, as well as applications on his part for receiving exhibits and summoning witnesses, may be written on unstamped paper. The notice to the defendant, the summons for witnesses, and other processes on the part of the plaintiff, shall be served through the chuprassies on the establishment of the courts without any expense to the plaintiff; and the copy of the decree, as well as copies of orders or proceedings which he may be required to take, shall be furnished to a pauper plaintiff on unstamped paper.—Reg. XXVIII, 1814, sec. viii.

12. Nothing contained in Schedule B, Regulation X, 1829, shall be deemed or considered to alter or affect the rules in force in regard to paupers.—Reg. X, 1829, Sched. B, Final Rule.

13. In all appeals, regular or special, under the Regulations in force, if the suit in appeal be referred back for further investigation and decision without a judgment upon the merits of the case, the stamp duty paid by the appellant on his petition of appeal shall be returned to him.—Reg. XIX, 1817, sec. viii.

14. Stamp duties shall be levied, raised, and paid, as heretofore, upon the deeds, instruments, and writings, and according to the rates specified in the Schedule (A) annexed to Regulation X, 1829, from and after the date of the promulgation thereof; and no deed, instrument, or writing executed in any place whatsoever on the continent of India, and relating to the payment or receipt of any sum of money, or to the sale, conveyance, or assignment, or transfer of any property, real or personal, being within any province or place to which this Regulation extends, or of any interest in such property, or relating to any agreement, contract, obligation, engagement, or settlement intended to have effect within any province or place as aforesaid (such deed, instrument, or writing being of a description chargeable with stamp duty, under the rules of this or any other Regulation), shall be pleaded, given, or admitted in evidence, or otherwise received or filed in any court of judicature or other public office, within the provinces subject to the presidency of Fort William, unless the paper, vellum, or other material on which such deed, instrument, or writing may be written, shall be stamped with the stamp prescribed for such deed, instrument, or writing in the said schedule, and the schedule aforesaid shall be deemed and considered to be, to all intents and purposes, part of this Regulation.—Reg. X, 1829, sec. iii, cl. 1.

15. Provided, however, that no exception shall be taken to any deed, instrument, or writing not executed on paper or other material bearing a stamp of the specific denomination prescribed in the schedule hereunto annexed, if such deed, instrument, or writing shall bear a stamp or stamps of an amount exceeding that so prescribed, or if when of a date anterior to the passing and promulgation of this Regulation, the stamp borne by the paper or other material of the deed, instrument, or writing corresponds with the rate of duty chargeable on the same, at the time when such deed or writing was executed.—Reg. X, 1829, sec. iii, cl. 2.

16. When a different stamp may be in use for Calcutta and for the interior, no exception shall be taken to any deed, document, or writing as bearing an undue stamp, because stamped with the Calcutta die when intended to have effect in the interior, provided the deed or document, and the stamp impressed thereon be in other respects correct, and the amount of duty indicated by the stamp correspond with that prescribed in this Regulation.—Reg. X, 1829, sec. iii, cl. 3.

17. In modification of the existing rules in regard to the authentication of stamped paper, by assistants duly appointed for that purpose, it is hereby declared and enacted, that such descriptions of paper only as may be directed by the Governor-General in Council shall be required to bear, in addition to the Government stamps, the authentication of signature by an assistant to the

superintendent of stamps. Every collector and vendor of stamps shall be provided with a copy and translation of the order last issued for regulating such authentication, that the same may be exhibited to purchasers, and to the public at large, and no paper, parchment, or other material shall be sold or delivered out from any store or place of vend that may not be conformable thereto. Any vendor selling unauthenticated paper of a description requiring to be authenticated, in violation of this rule, shall, on conviction, forfeit the sum of 100 rupees for each offence.—Reg. X, 1829, sec. iv.

18. The general superintendence of the management of the revenue derived by Government from stamps shall be vested in such Board, Commission, or other authority, as the Governor-General in Council may, from time to time, appoint and direct; and it shall be competent to the Governor-General in Council to assign the whole of the duties of superintendence to one authority, or to divide and distribute the several duties hereinunder prescribed to be performed, by a Board or other superior authority, amongst several officers and authorities, in such manner as he may determine, giving notice of any change in this respect by publication in the Government Gazette. —Reg. X, 1829, sec. v. cl. 1.

19. A stamp office, at which stamps of the several descriptions provided for by this Regulation shall be prepared, and kept in store, shall be established as heretofore at such house, building, or place, at or near the presidency as the Governor-General in Council may deem suitable for the purpose, and the same shall be under the charge of an officer, to be denominated superintendent of stamps, who shall in all matters connected with the execution and due enforcement of this Regulation, be subject to the orders of the Board, or other authority appointed by the Governor-General in Council, for the control and management of this branch of revenue. The superintendent shall keep an exact account of all stamps impressed or manufactured by the Government officers, as well as of all issues from the depôt, and of the quantity of stamped paper, vellum, or parchment of each description remaining in store. He shall likewise keep a separate account of unstamped water-marked papers, and of the receipts and issues thereof, and shall prepare and submit to the said Board, or other controlling authority, such periodical reports and statements as may be required by that authority.—Reg. X, 1829, sec. v, cl. 2.

20. For every sum charged, or purporting to be charged, as stamp duty on any vellum, parchment, paper, or other material, sold or delivered out for sale, two stamps shall be impressed, each of which shall specify in the English, Persian, and Bengallee characters, the amount of the sum charged; one of the said stamps shall be affixed at the stamp office, and shall bear, besides the value as above, the words "Stamp Office," in the English character, with any further device or legend which the Board or other controlling authority aforesaid may see fit to direct. The other impression shall be a counter-stamp, to be affixed in such place and at such office as the Governor-General in Council shall prescribe, and shall bear, along with the amount of duty levied, either the name of the office where the same may be so affixed in English, or the word "counter-stamp," to designate the nature thereof.—Reg. X, 1829, sec. vi, cl. 1.

21. It shall be the duty of the Board, or other controlling authority appointed as aforesaid, to provide, or cause to be provided, proper and sufficient stamp or dies, for expressing and denoting the several duties and rates specified in the schedule annexed to this Regulation, and it shall be competent to the authority aforesaid, to direct, if so deemed expedient, the employment of two or more stamps, to denote the amount chargeable on any single piece of vellum, parchment, paper, or other material: provided, however, that the stamp impressed with the words "Stamp Office," shall always correspond in number and value with the counter-stamps impressed thereon.—Reg. X, 1829, sec. vi, cl. 2.

22. The said Board or other controlling authority as above provided, shall have the power also of at any time changing or altering the dies, and of regulating the size, shape, and manner, and matter of the impressions at discretion; provided only that the stamp to be affixed at the stamp office shall always contain, in plain and legible characters, the legend prescribed in paragraph 20, and that the counter-stamp do similarly contain its legend. The said Board or other authority aforesaid, shall however in the exercise of the powers and functions vested in them by this Regulation, be guided by such special directions as they may receive from the Governor-General in Council, in the manner heretofore used in all matters and things belonging to the management of this branch of the public revenue.—Reg. X, 1829, sec. vi, cl. 3.

23. The collection and management of the stamp duties in the several districts subject to the presidency of Fort William, shall be vested in the collectors of land revenue, unless the Governor-General in Council shall at any time think proper to transfer the same to any other officer, or to associate, depute, or appoint another officer for the charge thereof. In such case the officer so deputed or appointed, shall exercise the power and authorities vested in collectors of land revenue by this Regulation, unless otherwise specially provided in the order of appointment.—Reg. X, 1829, sec. vii.

24. The collectors or other officers authorized to sell stamps shall be supplied with stamps upon indent, addressed to the superintendent of stamps, to whom they shall grant receipts in duplicate. —Reg. X, 1829, sec. viii, cl. 1.

25. The collectors or other officers authorized to sell stamps shall be answerable to Government for the value of all paper for which they may give receipts as above to the superintendent of stamps, or to their predecessors in office.—Reg. X, 1829, sec. viii, cl. 2.

26. The collector shall appoint such officers for the management of the stamps at the sudder cutcherry as he may deem fit, taking from them such security for his satisfaction as he may deem adequate and necessary; provided, however, that all persons employed in the vend of stamped paper, shall be liable to the rules hereinafter enacted for licensed vendors.—Reg. X, 1829, sec. ix, cl. 1.

27. No person not licensed after the manner hereinafter prescribed, shall be competent to expose stamped paper, parchment, or other material publicly to sale; and any one offending in this respect, shall, on conviction, forfeit to Government, for the first offence, the sum of five hundred rupees; and for the second or any subsequent offence, the sum of one thousand rupees. But nothing herein contained shall be deemed to prevent persons having duly purchased stamp paper or other material from the authorized vendors of Government, or having otherwise obtained such paper from the stamp office, after the manner hereinafter provided, from transferring the same to others.—Reg. X, 1829, sec. ix, cl. 2.

28. Every person who may be appointed by a collector or other covenanted officer to be a vendor of stamps on the part of Government, shall execute a bond with one or more responsible sureties, for the faithful performance of the several duties prescribed for vendors in this or any future Regulation, with such penalty, and after such form as may be required by the Board or other controlling authority; and any failure in fulfilling the conditions of such bond, shall, besides the penalty thereby provided, subject the offender to immediate dismission from the said office of vendor.—Reg. X, 1829, sec. x, cl. 1.

29. All persons licensed to vend stamps shall at all times have their respective licenses, together with a copy of the schedules annexed to this Regulation, or of an abstract thereof duly authenticated by the official signature of the superintendent of stamps, and likewise copy of the orders last issued, in respect to the authentication of stamp paper, as prescribed in paragraph 17, stuck up in a conspicuous place within the shop or building in which they may sell the stamps, and shall further hang up on the outer door of such shop or other building, such notification of their being licensed, as the Board or other controlling authority aforesaid, may direct. Any neglect or failure to observe the above rule, will on conviction before the collector of the district, subject the party offending to a fine of fifty rupees for each offence.—Reg. X, 1829, sec. x, cl. 2.

30. Persons licensed as aforesaid shall keep such accounts of the paper received and delivered by them, as the Board or other controlling authority may direct, and shall furnish the collector or other officer under whom they may serve, with such copies, statements, or extracts of their accounts, and at such periods, as he may from time to time require. The said persons shall regularly pay to the collector or other officer, all money or moneys received by them on the sale of stamps intrusted to them on the account of Government, at such periods as the said collector or other officer may appoint; and shall likewise at all times when required, permit the said officer, or any other person duly authorised by him, to inspect the accounts kept by them, and to examine the store of stamped paper, or other material bearing the prescribed stamp, which they may have in their possession for sale.—Reg. X, 1829, sec. x, cl. 3.

31. Any vendor failing to produce before the collector of the district, or other officer vested with the powers of a collector in respect to the stamp duty, any of the accounts required to be kept by him as above provided, after requisition made in writing by that officer, and failing to account for such omission to the satisfaction of the said collector or officer, or of the board or other controlling authority as above provided, shall forfeit the sum of fifty rupees for each offence, and shall further forfeit a like sum daily for every day beyond the date fixed in such requisition for the production thereof, until the day when the accounts may be produced. Any vendor refusing to permit the collector or other officer vested with similar authority, or any person duly authorized by a writing under the seal and signature of such officer, to inspect the said accounts, and examine the store of stamped paper at the time in the custody of such vendor, immediately upon demand, shall, on conviction, forfeit for every such refusal the sum of one hundred rupees, and shall further be subject to a daily fine of fifty rupees, until he shall comply with the collector's requisition.—Reg. X, 1829, sec. x, cl. 4.

32. No vendor of stamps shall deliver any stamped paper, vellum, parchment, or other material to any person whatsoever, without having previously received the full amount of the duty denoted by the stamp thereupon affixed, save and except in cases in which he may be otherwise specially permitted or directed by perwanna or written order of the collector or other officer exercising similar powers; and any vendor of stamps who may, without authority, permission, or direction in writing from the collector or other officer aforesaid, sell, give out, or deliver stamped paper, vellum, parchment, or other stamped material, without having received the entire amount of duty denominated by the stamp affixed thereto, shall, on conviction, forfeit for each and every

piece of paper or other material so given out or delivered by him, the sum of fifty rupees, besides being held responsible, in the first instance, for the value of the paper.—Reg. X, 1829, sec. x, cl. 5.

33. Vendors of stamps shall carefully write on the back of each sheet or piece of paper, vellum, parchment or other material bearing the impress of the Government stamps, on the same being sold or delivered by them, the date of sale and delivery, and also the name of the person to whom the same is delivered, and shall attest such endorsement with their signature, written in the manner commonly used by them; and any vendor of stamps giving out or delivering any stamped paper, vellum, parchment, or other material without writing on the back of each sheet or piece his name and the date of sale and delivery as aforesaid, shall, on conviction, forfeit for each and every piece of stamped paper, vellum, parchment, or other material so wrongfully given out or delivered by him, the sum of fifty rupees, when the value of the stamped paper or other material sold shall not exceed the sum of sixteen rupees; if the value of the stamped paper or other material so sold without due endorsement, shall exceed the sum of sixteen rupees, then the vendor shall, for every offence so committed, forfeit on conviction a sum equal to three times the value of the stamped paper so improperly sold by him.—Reg. X, 1829, sec. x, cl. 6.

34. Any vendor or distributor writing a false date or name at the back of stamped paper, vellum, parchment, or other material given out by him, shall, on conviction, forfeit the sum of one hundred rupees for every such offence, and if the value of the stamp sold exceed sixteen rupees, then he shall, on conviction, forfeit six times the value of such stamped paper, besides being in both cases liable to the penalty of his bond in case of breach of its stipulations.—Reg. X, 1829, sec. x, cl. 7.

35. Any stamp vendor convicted of refusing or of unnecessarily delaying to furnish stamped paper, vellum, parchment, or other material required by a person desiring to purchase, and tendering in lawful currency the full value of the same (he, the stamp vendor, having in his possession for sale stamped paper, vellum, or parchment of the description and value required), shall, besides forfeiting his license, be subject to a fine of one hundred rupees.—Reg. X, 1829, sec. x, cl. 8.

36. Any stamp vendor convicted of taking from a purchaser a higher price than that denoted on the stamps impressed on the paper, vellum, parchment, or other material sold, shall be deemed guilty of extortion, and shall be sentenced to six months' imprisonment on conviction before the collector or other officer qualified to take cognizance of the offence, besides being liable to refund the whole amount proved to have been levied or taken in excess of the proper duty.—Reg. X, 1829, sec. x, cl. 9.

37. It shall be competent to the collectors or other officers exercising similar powers to demand such collateral security, in addition to the bond above prescribed, as they may deem necessary to guard against loss from the misappropriation of the stamps delivered to the vendors, or from embezzlement of the money realised by them, and to require the same to be renewed, or other security to be furnished, at any time that he may deem expedient, and any vendor unable or refusing to give such security when required, shall not be appointed, or if already appointed, shall be liable to have his license immediately withdrawn.—Reg. X, 1829, sec. x, cl. 10.

38. When the license of any vendor may be withdrawn, or when such vendor shall resign the office, all stamped paper remaining in store at the time of such removal or resignation, and all accounts regarding the sale and distribution of stamped paper or the like at any time delivered to him, together with the balance of all money or moneys which may have been realized by the sale and distribution thereof, up to the date of removal or resignation, and which may not have been already paid or accounted for to the collector or other similar officer, and likewise all licenses, orders, or other documents or writings which the said vendor may have received from that officer, shall be forthwith delivered over to the said collector, or to such person or persons as he may appoint, by a writing under his hand and seal, to take charge thereof, receiving for any part of the stamped paper that may have been furnished to him for cash under the provisions of this or any other Regulation, the amount actually paid by him for the same as therein directed. In case any vendor removed or resigning shall refuse or fail to make over the said accounts and stores, and the balance of the accounts in cash, or any part thereof, he shall, on conviction, forfeit for such failure or refusal a sum equal to triple the amount and value of the stamps and money which may appear, from the accounts kept at the collector's office, to be, or which ought to be, in the possession of such vendor, together with a daily fine, not exceeding the sum of fifty rupees, until the papers, accounts, and documents required are furnished.—Reg. X, 1829, sec x, cl. 11.

39. In case of the death of any vendor of stamps, the collector, or other officer vested with similar powers to a collector, shall in like manner demand from the heir or person administering to or in possession of the estate of the deceased, or from any person in charge of his effects, the remainder of any store of stamped paper, vellum, parchment, or other material on which the stamp is impressed, that may be due from such vendor at the time of his decease, together with all accounts of the sale or distribution thereof, as well as all licenses, orders, or other documents or

writings as aforesaid, that may be forthcoming amongst the effects of the deceased; and in the event of any refusal on the part of the heir, administrator, or other person in charge of the effects of the deceased to deliver the same, a due official receipt being tendered for the same, or of refusal to allow search to be made whenever the collector or other similar officer may demand to make search for the said stores, writings, or accounts amongst the effects of the deceased, such heir, or administrator or other person in charge of the estate or effects, shall forfeit for every such offence, on conviction, the sum of one hundred rupees, and shall further be subject to a daily fine, not exceeding fifty rupees, until the papers, accounts, documents, and writings required are furnished, or search allowed to be made as required.—Reg. X, 1829, sec. x, cl. 12.

40. Provided also that it shall be competent to the collector in all cases in which a vendor may fail or delay to account for and make good the value of any stamped paper, vellum, parchment, or other material, having a stamp impressed thereon, with which he may have been furnished for sale on account of Government, immediately to call upon the surety or sureties of the said vendor, to make good the balance of money or paper standing against the vendor, and on his or their failure to do so, to proceed against all or any of them for the recovery of the amount by the process in use for recovery of arrears of revenue due by a sudder farmer.—Reg. X, 1829, sec. x, cl. 13.

41. For the convenience of merchants, indigo planters, attorneys, and others who may be desirous of having in their possession papers, parchments, or other material stamped with various impressions, to be used as occasion may require, in drawing up instruments of any of the descriptions required to be executed on materials impressed with a Government stamp, it is hereby provided, that any person desirous of obtaining a supply of stamped paper, or other material, shall, on application to the collector of the district, or such other officer or officers as the Governor-General in Council may, from time to time, appoint, with similar powers, and on payment to the said officer of the amount chargeable on account of the stamps required, receive a certificate or receipt from the collector or officer aforesaid, stating the amount paid, and the number and value of the stamps required, and on the production of that certificate, together with the necessary quantity of plain paper, parchment, or other material, the superintendent of stamps, or other officer in charge of the Stamp Office, shall cause the same to be immediately stamped and counter-stamped with the prescribed stamps of the denominations required.—Reg. X, 1829, sec. xi, cl. 1.

42. No paper, vellum, parchment, or other material shall, on any account, be received by the superintendent of stamps, to be stamped on account of any individual, unless the same be accompanied with the above certificate or receipt, under the signature of the collector or other officer aforesaid for the entire amount of duty which may be required to be impressed and denoted thereon, or unless the same be sent to be stamped by authority of the Board, or other controlling authority, under the powers vested in them by this Regulation. The receipt or certificate of the collector or other officer aforesaid, shall be disposed of by the superintendent in such manner as the Board or other controlling authority aforesaid may direct.—Reg. X, 1829, sec. xi, cl. 2.

43. The superintendent of stamps shall appoint one or more officer or officers of the establishment to receive and compare with the receipt of the collector or other officer aforesaid, all papers and other materials brought or transmitted to be stamped as above provided, and after the stamps shall have been affixed, an officer similarly appointed shall again count and number the whole and sign his name at the back of each separate sheet or piece of paper or other material, and he shall likewise note or cause to be noted on each the date on which the said paper is ready for re-delivery, and further make an entry to that effect, with specification of the quantity of paper or other material impressed with each description of stamp, in a book to be specially kept by him for that purpose. When the paper or other article shall be prepared in the manner above described, it shall be made up into a parcel to be sealed with the superintendent's seal, and shall in that state be forthwith transmitted for delivery to the person who may have sent it to be stamped, or, at the superintendent's option, notice shall be sent of its being ready for delivery when called for.—Reg. X, 1829, sec. xi, cl. 3.

44. Any person purchasing stamped paper and furnishing the material as above provided shall, provided the total value purchased exceed 500 rupees, be entitled to a discount of four per cent., and the amount of such discount shall be charged and entered in the accounts of the collector or other officer through whom the purchase may be made, under the head of disbursements.—Reg. X, 1829, sec. xi, cl. 4.

45. It shall be competent to the Board, or other controlling authority aforesaid, to direct and cause stamps to be furnished in the manner prescribed in this section to any licensed vendors who may be willing to purchase the same. All such persons however shall, in the sale of stamped paper so furnished to them, be subject to the same rules as are prescribed for the sale of stamps supplied to them on account of Government: provided, however, that if a vendor so supplied with stamped paper shall die or resign, or be dismissed, or if his license be otherwise

cancelled, the collector shall require and receive from him, if alive, and from his securities and representatives if he has demised, all the stamped paper, vellum, or the like which may have been furnished to him under the provisions of this section, or such portion as may not have been disposed of, and he or his representative shall be entitled to receive a sum equivalent to the price which he may have advanced for the same, viz. the specified amount of the stamped paper or other material aforesaid, with a deduction of the discount that may have been allowed thereon.—Reg. X, 1829, sec. xi, cl. 5.

46. Any native officer or other person wilfully causing or procuring any stamp to be fixed or impressed, or any certificate to be granted in the manner above described, without the perwanna or written order of the collector or other similar officer, or conniving with persons so fixing or impressing any stamp or so granting a certificate, shall be liable for every such offence to a fine of one thousand rupees, commutable to imprisonment for the term of one year, and shall further be held answerable for the amount of the stamps so impressed, or of the duty leviable on the paper mentioned in the certificate.—Reg. X, 1829. sec, xi, cl. 6.

47. Should it so happen that any stamped paper, parchment vellum, or the like, after having been obtained in the regular manner, shall have become soiled, spoiled, or unfit for use, either by consequence of any accident happening to the same, or because of error in the drawing up or copying any instrument thereupon, which being discovered before such instrument may be finally signed, and executed, renders the writing of no avail, or when by reason of the death or refusal of the party or parties whose signature may be necessary to effect the transaction intended by such writing, it remains incomplete and of no avail, or when by the refusal of any office or trust that may be granted by an instrument, it has failed of the purpose intended, or in the case of promissory notes, bills of exchange, or the like, if by non-delivery to the payee or person acting on his behalf, or from other cause, the same are never brought to use, in all such cases, it shall be competent to the Board or other controlling authority, duly appointed as above provided, upon delivery being made of the stamped paper, parchment, vellum, or the like, so soiled or spoiled, or rendered useless, to cause stamps of equivalent value to be delivered as above provided to the owner of the article or articles so soiled or spoiled, or his representative. But this rule shall not extend to bills of exchange drawn in sets, of which any one of the set may have been delivered to the payee.—Reg. X, 1829, sec. xii, cl. 1.

48. The owners of stamped paper, which may be damaged or soiled as aforesaid, shall prefer their application to the collector of the district in which they may have purchased it, and if the collector be of opinion that the application ought to be complied with, he shall transmit a report of the case to the Board, or other controlling authority to which he is subject, who shall be and are hereby authorized to direct the collector to deliver to the party or his representative, stamped paper equivalent to that which may have been destroyed or soiled, in the same manner, and subject to the same conditions as above prescribed for delivery of stamps to individuals. Provided, however, that no such indulgence shall be granted when the value of the soiled stamps may not exceed ten rupees, nor unless application be made within six weeks of the period when the material may have become soiled or otherwise damaged, and rendered of no avail.—Reg. X, 1829, sec. xii, cl. 2.

49. If any deed, instrument, petition, pleading, or other writing, required to be written on stamped paper, and written on the prescribed stamped paper, shall be filed, exhibited, or recorded in any Court of Judicature or public cutcherry, or before any judge, collector, or other public officer, not bearing the signature and endorsement of a licensed stamp vendor (or not procured in the manner prescribed by this Regulation, and duly certified to be so, when not obtained from a licensed vendor), the person or persons filing, exhibiting, or recording the said deed, instrument, petition, pleading, or writing, or causing, or procuring it to be filed, exhibited, or recorded, shall forfeit a sum equal to five times the value of the said stamped paper; and if any deed, instrument, petition, pleading, or document shall be filed, exhibited, or recorded as aforesaid, having a forged or counterfeit stamp or signature, the person filing, exhibiting, or recording such deed, instrument, or document, that is to say, the party or his agent, who may have produced the same for the purpose of being filed, exhibited, or recorded, shall forfeit to Government a sum equal to twenty times the value of the stamp which ought to have been used, unless the material on which the same may be executed shall bear the signature and endorsement required by this Regulation, and the party shall be able to show, to the satisfaction of the zillah judge or collector or other officer conducting the inquiry on the part of Government, as hereinafter directed, that the material stamped with a forged stamp was purchased or obtained on the date, and in the manner specified on the back, or was otherwise procured in some manner prescribed or permitted by this Regulation. If the said signature and date shall be duly endorsed on the back of the material stamped as aforesaid with a forged impression, and the proof adduced to the fact, and to the date of purchase, be deemed by the judge or other officer before whom, or in whose office the deed, instrument, or other writing may have been filed, exhibited, or recorded to be sufficient, that officer, if not himself the collector, shall transmit

the document to the collector, with a communication of the judgment in the case, in order that proceedings may be instituted against the vendor; and the collector, on payment by the party of the established duty chargeable on account of the matter of the instrument or deed in question, shall forward it to the superintendent of stamps, in order that it may be duly stamped, the amount so paid being recoverable from the vendor, or from any fine levied from him on account of the transaction. —Reg. X, 1829, sec. xiii, cl. 1.

50. If any person shall discover that any deed, instrument, or document in his possession, is written on paper or other material bearing a forged or counterfeit signature or stamp, such paper or other material bearing the signature and endorsement required by this Regulation, and shall himself represent the circumstance to the collector or other officer in charge of the stamp revenue of the district, such person shall, on proving to the satisfaction of the said officer that the paper or other material in question was purchased or obtained from a vendor, on the date specified on the back, or in a manner prescribed or permitted as aforesaid, be entitled to have the said paper or material duly stamped, without any fee or charge whatsoever.—Reg. X, 1829, sec. xiii, cl. 2.

51. Deeds, instruments, and writings, executed on unstamped paper, by individuals from accident, ignorance, inadvertance, error, or from other unavoidable cause; or deeds which may have come into the possession of persons subsequently to execution, not executed on paper bearing the prescribed stamp, may be impressed with the requisite stamps on application being made to the collector or other officer in charge of this branch of the revenue, after payment of the penalties hereinunder stated, or such mitigated penalty in lieu thereof, as the Board or other controlling authority may prescribe.—Reg. X, 1829, sec. xiv, cl. 1.

52. If the deed have been executed in ignorance or through inadvertence, or under circumstances exonerating the party from blame or suspicion of an attempt to evade payment of the prescribed duty, then if brought within thirty days of the date of execution, on payment of treble the amount of duty, or treble the difference, if on stamped paper of an inferior denomination.—Reg. X, 1829, sec. xiv, cl. 2.

53. If not brought to be stamped within the said period of thirty days from the date of execution, and the party be nevertheless exempt from all suspicion of attempt to evade the payment of duty, then, provided a period of three months have not elapsed since the date of execution, or if brought within six months from the date of the promulgation of this Regulation, on payment of five times the amount, or five times the difference, if on stamped paper of an inferior denomination. —Reg. X, 1829, sec. xiv, cl. 3.

54. If the party be unable to satisfy the collector or the Board, or other superior authority as aforesaid, that the execution of the deed on paper not duly stamped, proceeded from accident, ignorance, inadvertence, error, or other cause, exempt from suspicion of evasion, the party shall, provided the deed be voluntarily brought within six months from the promulgation of this Regulation, or within three months from the date of execution, be entitled to have the prescribed stamp affixed, on payment of a penalty equal to ten times the value; and the decision of the Board or other controlling authority aforesaid, whether declaring the paper liable or not liable to suspicion of evasion, shall be conclusive and final.—Reg. X, 1829, sec. xiv, cl. 4.

55. Deeds and instruments executed on unstamped paper, and not presented to be stamped within six months from the date of the promulgation of this Regulation, or within three months from the date of execution, shall not be entitled to the benefit of being stamped, except upon ground shown to the satisfaction of the Board, or other controlling authority aforesaid, whereby it shall be made to appear to that authority, that by refusing to affix the stamp, the party will be subjected to great and unmerited hardship or injustice. In every such case, when it may be determined to affix the stamp, the fine to be taken in consideration thereof shall be discretional, but shall not be less than ten times the value of the stamp.—Reg. X, 1829, sec. xiv, cl. 5.

56. The collectors of land revenue in the several districts shall investigate and decide in the first instance, all cases of penalty incurred by breach of this Regulation, attaching the deed when necessary, pending investigation. On completing the investigation, they shall transmit their proceedings to the Board or other controlling authority, duly appointed by the Governor-General in Council, with such decision as they may pass thereon, and the grounds thereof fully recorded. The decision of the collector shall be liable to be confirmed, modified, or reversed by the said controlling authority, whose decision shall be final.—Reg. X, 1829, sec. xv, cl. 1.

57. All penalties incurred under this Regulation, and adjudged by the revenue authorities as aforesaid, as well as all balances of cash due from vendors or from their estates, shall and may be recovered by the collectors of land revenue from the persons or officers liable thereto, or from their sureties, by the same process as it is or may be lawful to adopt for the recovery of arrears of land revenue due from any farmer of land or his surety.—Reg. X, 1829, sec. xv, cl. 2.

58. It shall be competent to the Board or other controlling authority appointed as above described, as well as to the Governor-General in Council, to remit any fine or penalty, or any part thereof, that may be incurred under the rules of this Regulation; provided, however, that nothing

herein contained shall be considered to affect the existing laws and provisions in respect to the forging of stamps, or in respect to the knowingly using or issuing of paper bearing a forged or counterfeit stamp.—Reg. X, 1829, sec. xvi.

59. In addition to the duties chargeable on deeds, instruments, and writings specified in Schedule (A), there shall further be levied, raised, and paid, as heretofore, in the provinces subject to the presidency of Fort William, duties on law papers, viz. petitions of plaint, pleadings and the like, at the rates and in the manner prescribed in Schedule (B), which, with the rules and provisions therein included, shall be deemed and taken to be part of this Regulation; and no papers shall be filed, exhibited, received, or admitted in any Court of Judicature of the description stated in the schedule to require a stamp, unless the same shall be duly stamped.—Reg. X, 1829, sec. xvii.

60. Except in the Lower Provinces, every vakeel, or authorised pleader or mookhtar, attached to any Court of Judicature, who shall present for the purpose of being filed or recorded in any court or cutcherry, any paper, petition, or any deed, instrument, or document, requiring to be stamped by the rules of this Regulation, on unstamped paper, or on paper not bearing the proper stamp, and not duly endorsed, or on paper bearing a counterfeit stamp, unless signed and endorsed by a vendor as prescribed, shall forfeit five times the amount of the stamp which ought to have been used, or five times the difference in case of the use of improper stamps, as prescribed in paragraphs 49 and 50. The said fine shall be imposed and levied by the presiding officer of the court in which the said vakeel or mookhtar may be practising, and the amount shall be remitted to the collector with copy of the proceedings or order imposing the fine.—Reg. X, 1829, sec. xviii, cl. 1; and Act XVIII, 1852, sec. i.

61. Except in the Lower Provinces, it shall further be competent to the collector or other officer exercising similar powers, on discovery of any irregularity of the above description, not noticed on the proceedings of the court, to move the court by petition, to be presented to the judge of the zillah within whose jurisdiction such vakeel or other person so offending may be practising, for infliction of the above fine, when incurred in any court within the zillah or city jurisdiction, or if the vakeel so offending be an officer of the Sudder Dewanny Adawlut, then the collector shall make application to that court through the vakeel of Government attached thereto, and the case shall be tried and adjudged by the zillah judge, or by the judges of the superior court, and their decision, as to whether the penalty has been incurred or not, shall be final.——Reg. X, 1829, sec. xviii, cl. 2, and Act XVIII, 1852, sec. i.

62. It shall and may be lawful for the Board or other controlling authority, and for the collectors of land revenue or other officers vested with the local charge of this branch of revenue, to summon witnesses, to administer oaths and affirmations, and to take affidavits and affirmations with the same powers and authority in regard to resistance or disobedience of their orders in this behalf, and in respect to contempts, as belong to the zillah and city judges; and any person giving intentionally and deliberately a false deposition on oath or upon solemn affirmation, when examined by any of the authorities or officers aforesaid, shall be held and considered to be guilty of perjury, and shall be liable to be prosecuted for the same in the criminal courts by the vakeel of Government, and on conviction before a sessions court, shall incur the penalties which are or may be prescribed for that offence.—Reg. X, 1829, sec. xix.

63. The zillah and city judges shall give effect to all orders passed by the Board or other authority exercising the powers of control, or by collectors acting under the authority hereinbefore vested in them, when the same may require or adjudge confinement in the Dewanny gaol, of persons convicted and sentenced to penalties, or of persons who may refuse to make oath, or affirmation, or to give evidence when legally required to do so, or who may be guilty of contempt.—Vendors convicted of extortion under paragraph 36 shall be forwarded to the magistrate of the district to be confined in the criminal gaol.—Reg. X, 1829, sec. xx.

64. Whenever the superintendent of stamps or his assistant, or any other officer duly empowered thereto, shall proceed into the interior under the orders of the Board or other controlling authority, or of the Governor-General in Council, for the purpose of inquiring into any matter connected with the management of the stamp revenue, or for any other purpose, he shall be competent to exercise the power and authority of a collector of revenue within the district or place to which he may so proceed, besides any other powers and functions that may be vested in him by the Governor-General in Council.—Reg. X, 1829, sec. xxi.

65. SCHEDULES.

SCHEDULE (A), referred to in paragraph 14, containing a Specification of the Duties chargeable on Instruments of Conveyance, Contract, Obligation, and Security for Money, and on Deeds in general.

1.—AGREEMENT, IKRAR, or any minute, or memorandum of AGREEMENT concerning any matter or thing, not otherwise charged in this Schedule, nor expressly exempted from all stamp duty, whether the same be only evidence of a contract or obligatory upon the party—if relating to matters capable of valuation, and with the value stated .. .. .. — To be charged as hereinunder prescribed for bonds of the same amount.

2.—AGREEMENT for a monthly or annual payment .. ... .. .. — To be estimated at the amount of ten years' payment, or of the total sum secured, if less.

3.—AGREEMENT to perform any legal act, or for a purpose not restricted to, or specifying any amount .. .. .. .. .. .. .. — To be executed on such stamp as the parties may determine, but no recovery can be made on the instrument in any Court of Justice of a larger amount than may be covered by the stamp at the rate prescribed in the schedule for bonds.

EXEMPTIONS:

Memorandum of agreement for the hire of labour.

Ditto, all agreements carried on by letter through the public dawk between merchants and other persons.

4.—BILLS OF EXCHANGE, DRAFTS, PROMISSORY NOTES, HOONDEES, TEEPS, BURATS, and other orders, or obligations for the payment of money, payable (if payable within the provinces subordinate to this presidency) at sight, or on demand, or at the periods specified below (not being deeds, instruments, or writings, bearing the attestation of one or more witnesses), together with all bills of exchange payable out of the said provinces at whatever date.

| | | | | | | At sight or on demand, or not exceeding three months to be charged. | | Exceeding three months after date, and not exceeding one year, to be charged | |
|---|---|---|---|---|---|---|---|---|---|
| | | | | | | Rs. | A. | Rs. | A. |
| If for a sum of money not exceeding | | | | | 25 rupees | 0 | 1 | 0 | 2 |
| Above | 25 rupees | and not exceeding | | | 50 „ | 0 | 2 | 0 | 4 |
| „ | 50 | „ | „ | .. | 100 „ | 0 | 4 | 0 | 8 |
| „ | 100 | „ | „ | .. | 200 „ | 0 | 8 | 0 | 12 |
| „ | 200 | „ | „ | .. | 400 „ | 0 | 12 | 1 | 0 |
| „ | 400 | „ | „ | .. | 800 „ | 1 | 0 | 1 | 8 |
| „ | 800 | „ | „ | .. | 1,600 „ | 1 | 8 | 2 | 0 |
| „ | 1,600 | „ | „ | .. | 3,000 „ | 2 | 0 | 2 | 8 |
| „ | 3,000 | „ | „ | .. | 5,000 „ | 2 | 8 | 4 | 0 |
| „ | 5,000 | „ | „ | .. | 10,000 „ | 4 | 0 | 6 | 0 |
| „ | 10,000 | „ | „ | .. | 20,000 „ | 6 | 0 | 8 | 0 |
| „ | 20,900 | „ | „ | .. | 30,000 „ | 8 | 0 | 12 | 0 |
| „ | 30,000 | „ | „ | .. | 50,000 „ | 12 | 0 | 16 | 0 |
| „ | 50,000 | „ | „ | .. | 1,00,000 „ | 16 | 0 | 20 | 0 |
| „ | 1,00,000 | .. | .. | .. | .. .. .. | 20 | 0 | 25 | 0 |

5.—BILLS OF EXCHANGE, PROMISSORY NOTES, &c., intended to be re-issued — Shall be charged as prescribed for promissory notes payable at a date exceeding three months.

6.—BILLS OF EXCHANGE, PROMISSORY NOTES, &c., of date exceeding one year .. .. .. .. .. .. .. .. .. .. — To be charged as bonds.

*Note.*—The Governor-General in Council reserves to himself the power of admitting any bank or company to compound for the stamp duty chargeable on the promissory notes issued by it. Notice of such arrangements shall be given in the Government Gazette.

EXEMPTIONS:

Bills of exchange or hoondees for any sum of money, if drawn *bonâ fide* from any place distant more than 100 miles from the place where the same are made payable, and not negotiated after acceptance, also foreign bills of exchange drawn in sets.

Provided, however, that if any bill or bills of exchange drawn in any part of the continent of India, and made payable in the provinces subject to this presidency, shall be negotiated therein after acceptance, or be in any way transferred after acceptance to a third party, other than the acceptor and the payee of such bill or bills, the exemption shall not hold in respect to any such negotiated bill or bills, unless the same shall be taken to be stamped prior to

such negotiation, or unless there be affixed to each bill a copy of the same, executed on paper stamped with a stamp to which such bill is declared liable in this Schedule.

EXEMPTIONS—*continued.*

Bills of exchange drawn and promissory notes, &c., issued by Government officers authorized to draw bills upon the Government treasuries, or to issue promissory notes, or other acknowledgments on account of Government.

All drafts or orders for the payment of any sum of money to the bearer on demand, drawn upon any bank, banker, or agent, residing within twenty miles of the place where such draft or order shall be issued, such place being specified on the face of the draft.

BILLS OF SALE—See "CONVEYANCE and MORTGAGE."

7.—BONDS, TUMUSOOKS, and other attested obligations for the payment of money; also PROMISSORY NOTES and BILLS OF EXCHANGE, TEEPS, BURATS, and the like, of date exceeding one year.

| | | Rs. | A. |
|---|---|---|---|
| If for any sum not exceeding .. .. .. .. | 25 rupees .. | 0 | 2 |
| Above 25 rupees and not exceeding .. | 50 „ .. | 0 | 4 |
| „ 50 „ „ .. .. | 100 „ .. | 0 | 8 |
| „ 100 „ „ .. .. | 200 „ .. | 1 | 0 |
| „ 200 „ „ .. .. | 300 „ .. | 2 | 0 |
| „ 300 „ „ .. .. | 500 „ .. | 4 | 0 |
| „ 500 „ „ .. .. | 1,000 „ .. | 6 | 0 |
| „ 1,000 „ „ .. .. | 2,000 „ .. | 10 | 0 |
| „ 2,000 „ „ .. .. | 3,000 „ .. | 16 | 0 |
| „ 3,000 „ „ .. .. | 5,000 „ .. | 20 | 0 |
| „ 5,000 „ „ .. .. | 10,000 „ .. | 32 | 0 |
| „ 10,000 „ „ .. .. | 20,000 „ .. | 40 | 0 |
| „ 20,000 „ „ .. .. | 50,000 „ .. | 64 | 0 |
| „ 50,000 „ „ .. .. | 75,000 „ .. | 70 | 0 |
| „ 75,000 „ „ .. .. | 1,00,000 „ .. | 80 | 0 |
| „ 1,00 000 „ „ .. .. | 1,50,000 „ .. | 100 | 0 |
| „ 1,50,000 „ „ .. .. | 2,00,000 „ .. | 120 | 0 |
| „ 2,00,000 „ .. .. .. .. .. .. .. .. | | 150 | 0 |

And a further duty of 100 rupees for every sum of one lac in excess of the said amount of two lacs of rupees.

8.—BONDS, given as security for the transfer of Government securities, or for the payment of an annuity for a fixed period, or for the delivery or accounting for any matter or thing capable of being valued .. .. .. — Shall be charged at the rate of the amount engaged to be paid or accounted for, or at the value of the thing to be delivered or transferred.

9.—BONDS, for annuities for an indefinite period, such as life annuities, and the like .. .. .. .. .. .. .. .. .. — Shall be charged at the rate of ten times the yearly payment.

10.—BONDS, when the amount of the money to be secured, or ultimately recovered, shall be uncertain and unlimited .. .. .. .. — May be executed on such stamp as the party may please, but no recovery shall be made thereon in any Court of Justice of a larger amount than is covered by the stamp.

11.—BONDS, for the due execution of an office, or work, mochulkas, and the like, taken by individuals, and all other bonds not otherwise charged or exempted from duty .. .. .. .. .. .. .. .. — On optional stamp as above, with like condition.

12.—When the amount is limited to a certain sum .. .. .. .. — The same as on a bond for such limited sum.

EXEMPTIONS:

Arbitration bonds.

Bonds, given to or by the officers of Government on account of any matter or thing of or belonging to the Government in its political or territorial capacity.

13.—SECURITY BONDS, which may be taken by or by order of any court, collector, or other judicial or revenue authority; also razeenamahs, sooluhnamahs, and ruffanamahs, filed in any suit pending in a Court of Justice .. — To be charged as specified and prescribed in Schedule (B) for law papers.

14.—CHARTER PARTIES, or any AGREEMENT of CONTRACT for the charter of any ship or vessel, or any memorandum, letter, or other writing between the captain, master, or owner of any ship or vessel, and any other person, for or relating to the freight or conveyance of any money, goods, or effects on board of such ship or vessel .. .. .. .. .. .. — If the amount payable under the deed exceeds one thousand rupees, eight rupees—and if less than one thousand rupees, according to the scale prescribed for bonds.

EXEMPTIONS:

Charter-parties of ships or vessels taken up by Government for the conveyance of troops or military stores, or for other political purposes.

15.—CONTRACTS and DEEDS, if not otherwise charged or exempted from duty — As agreements.

| | Rs. | A. |
|---|---|---|
| 16.—Co-partnership, Deeds of .. .. .. .. .. .. | 8 | 0 |
| 17.—Composition Deeds, or other instruments of composition between a debtor or debtors, and his, her, or their creditors .. .. .. .. | 8 | 0 |
| 18.—Conveyances (Kubalas, Bynamas, Hibanamas), or deeds or instruments of any kind or description whatsoever executed for the sale or transfer for a consideration of any lands, tenements, rents, annuities, or other property, real or personal, heritable or moveable, or of any right, title, interest, or claim to or upon any lands, houses, rents, annuities, or other property, that is to say, for or in respect of the principal or only deed, instrument, or writing whereby the property sold shall be conveyed to or otherwise vested in the purchaser or purchasers, or to some other person, by his or their directions. | | |
| When the purchase or consideration-money therein expressed or denoted shall not exceed .. .. .. .. .. .. .. 50 rupees .. | 0 | 8 |
| Above 50 rupees and not exceeding .. 100 " .. | 1 | 0 |
| " 100 " " .. .. 200 " .. | 2 | 0 |
| " 200 " " .. .. 500 " .. | 4 | 0 |
| " 500 " " .. .. 1,000 " .. | 8 | 0 |
| " 1,000 " " .. .. 2,000 " .. | 12 | 0 |
| " 2,000 " " .. .. 3,000 " .. | 16 | 0 |
| " 3,000 " " .. .. 5,000 " .. | 20 | 0 |
| " 5,000 " " .. .. 8,000 " .. | 32 | 0 |
| " 8 000 " " .. .. 12,000 " .. | 40 | 0 |
| " 12,000 " " .. .. 20,000 " .. | 50 | 0 |
| " 20,000 " " .. .. 30,000 " .. | 64 | 0 |
| " 30,000 " " .. .. 50,000 " .. | 80 | 0 |
| " 50,000 " " .. .. 1,00,000 " .. | 100 | 0 |
| " 1,00,000 " " .. .. 2,00,000 " .. | 150 | 0 |
| and for every further lac of rupees beyond two lacs .. .. .. .. | 100 | 0 |

*Note.*—When, of several deeds, instruments, or writings, a doubt shall arise which is the principal, it shall be lawful for the parties to determine for themselves which shall be so deemed, and to engross the same on paper, parchment, vellum, or the like, stamped for the prescribed *ad valorem* duty.

19.—Provided, however, that in all cases where there are more deeds than one, all other deeds than the principal shall be charged with a like stamp to the principal deed if of value not exceeding eight rupees (which sum shall be the maximum duty on collateral deeds), and all such collateral deeds shall specify by their contents, which other is the principal deed by which the conveyance has been effected, certifying that it is executed in the manner and on material stamped as required.

## EXEMPTIONS:

All grants, leases, sales, or the like, wherein Government, in its political or territorial capacity, is a party.

*Note.*—This exemption shall not extend to sales made for the recovery of arrears of revenue or rent, or in satisfaction of decrees of court, in which cases the purchasers shall be required to pay the prescribed duty along with the purchase-money, and shall receive from the officer conducting the sale, a deed of sale (bye-nama), executed on paper impressed with a corresponding stamp.

## EXEMPTIONS—*continued.*

All transfers of subscriptions to any of the Government loans, or other Government securities, also of bank shares.

| | | |
|---|---|---|
| 20.—Copies—Copy or Counterpart of any deed or instrument attested to be a true copy and furnished to a party to the same, for the purpose of being given in evidence for the recovery of any sum of money, property, interest, or right secured thereby . .. .. .. .. .. .. | The same duty as prescribed for the original deed by this Regulation. | |
| 21.—Where such copy may be made for the security or use of any person not being a party to, or taking any benefit or interest immediately under the agreement, contract, bond, deed, or other instrument, per sheet .. .. | 0 | 8 |
| 22.—Copy or Extract of any deed, instrument, schedule, receipt, or other matter, annexed to any agreement, contract, bond, deed, or other instrument, per sheet .. .. .. .. .. .. .. .. .. .. | 0 | 8 |
| 23.—Authenticated copies of any records, letters, accounts, statements, reports, or other writings furnished to individuals from any of the public offices of Government, shall be written on paper of the size and description now used for the purpose, and called copy paper at the stamp office, and of the value for each and every sheet of .. .. .. .. .. .. | 0 | 8 |

For copies of judicial papers to be given from the Courts of Justice, revenue kutcherries, &c.—See Schedule (B).

EXEMPTIONS:

Copies made for the private use only of any person having the custody of the original instruments, or of his or her attorney or solicitor, and copies of deeds, &c., retained in public offices on returning the originals.

Copies of papers which public officers are directed by any general regulation to make, require, or furnish, not being specially declared chargeable with stamp duty.

24.—DEEDS of any kind, not otherwise particularized in this schedule .. As agreements.

25.—EXCHANGES.—Any deed, whereby any real property shall be conveyed, or surrendered in exchange for other property.

If no sum of money shall be paid or agreed to be paid for equality of exchange .. .. .. .. .. .. .. .. .. .. Rs. 8 A. 0

26.—And if any sum of money be paid or agreed to be paid for equality of exchange .. .. .. .. .. .. .. .. .. The same *ad valorem* duty as for a conveyance for such sum

27.—ENGAGEMENTS to cultivate, provide, or deliver indigo plant, or to produce, manufacture, provide, or deliver any other article of commerce, in consideration of advance made .. .. .. .. .. .. Shall be charged on the amount advanced at the rate of bonds.

28.—LEASES.—Any lease made in perpetuity, or for a term of years or period determinable, with one or more lives, or otherwise contingent, in consideration of a sum of money paid in the way of premium, fine, or the like, if without rent .. .. .. .. .. .. .. .. .. .. The same duty as for a conveyance or sale for a sum of the amount of such consideration

29.—Any LEASE of LANDS, HOUSES, or other REAL PROPERTY at a monthly or yearly rent, without any payment of any sum of money by way of fine or premium.

| | For a period not exceeding one year. Rs. | A. | For a period exceeding one year | |
|---|---|---|---|---|
| Where the rent calculated for a whole year shall exceed twelve rupees, but not exceed twenty-four rupees .. .. .. | 0 | 4 | 0 | 8 |
| Exceeding 24 rupees, but not exceeding 50 rupees | 0 | 8 | 0 | 12 |
| " 50 " " 100 " | 0 | 12 | 1 | 0 |
| " 100 " " .. 250 " | 1 | 0 | 2 | 0 |
| " 250 " " .. 500 " | 2 | 0 | 4 | 0 |
| " 500 " " .. 1,000 " | 4 | 0 | 8 | 0 |
| " 1,000 " " .. 2,000 " | 8 | 0 | 12 | 0 |
| " 2,000 " " .. 4,000 " | 12 | 0 | 16 | 0 |
| " 4,000 " " .. 6,000 " | 16 | 0 | 20 | 0 |
| " 6,000 " " .. 10,000 " | 20 | 0 | 32 | 0 |
| " 10,000 " " .. 50,000 " | 32 | 0 | 64 | 0 |
| Above 50,000 .. .. .. .. .. .. | 64 | 0 | 80 | 0 |

30.—Any LEASE of LANDS, HOUSES, or other REAL PROPERTY stipulating for a yearly rent, and granted in consideration of a fine or premium .. Shall be charged with a duty equal to both *ad valorem* duties above provided, viz., both as lease and conveyance.

31.—The COUNTERPART of any LEASE, *i.e.*, the KUBOOLEUT, or the like .. Shall be executed on paper, vellum, or parchment, bearing the same stamp as the original.

EXEMPTIONS:

All leases where the annual rent shall not exceed twelve rupees.

All leases or pottahs given by authority of Government, or of the Board of Revenue, with their counterparts, and all security-bonds, executed as part of the same transactions; also all leases, viz., pottahs and kubooleuts, executed and exchanged with ryots, and other actual cultivators of the soil.

*Note.*—Leases, pottahs, kubooleuts, or other instruments of contract between zemindars, talookdars, or other holders or proprietors of land, whether subject to the payment of revenue to Government or otherwise, or between farmers, kutkenadars, ijaradars, or other tenants, on one hand, and any other talookdar, kutkenadar, ijaradar, or other leaseholder, intermediate between the ryots or actual cultivators and the sudder mulguzar or lakhiraydar, on the other .. .. .. .. Shall be written on stamped paper of the value above prescribed for leases.

LETTERS, or POWERS OF ATTORNEY, MOKHTARNAMAS, &c., viz.:

32.—POWERS to perform any one special, that is to say particular act, or the acts connected with one particular suit, case, or transaction .. .. 0 8

33.—GENERAL, *i.e.*, not restricted as above to one case, suit, or transaction .. 4 0

EXEMPTIONS:

Wukalutnamahs, mokhtarnamas, and other powers required to be filed for the conduct of suits pending before the Native Courts of Judicature, or before the revenue authorities, for the rule regarding which, see Schedule (B), "Law Papers."

34.—LETTERS OF LICENSE from CREDITORS to DEBTORS .. .. .. 8 0

| | |
|---|---|
| 35.—MORTGAGES—ANY DEED OF MORTGAGE OR CONDITIONAL SALE, KUTKUBALA, BYE BIL WUFA, BHOG-BUNDHUK, &c., with or without possession given, of or for any lands, estates, or property, real or personal, intended as a security for money due, or to be lent thereupon; also, any deed or contract accompanied with a deposit of title-deeds to any property, where the same may be made as a security for payment of money due or lent at the time .. .. .. .. .. .. .. .. | Shall be charged after the same manner, and at the same *rates*, as if, in lieu of such deed of mortgage or the like, a bond had been taken for the sum due or lent at the time. |
| 36.—DEEDS OF MORTGAGE, or the like, given as security for the transfer of Government securities, or for the payment of an annuity for a fixed period, or for the delivery at a future date of any matter or thing capable of being valued .. .. .. .. .. .. .. .. .. .. | Shall be charged at the above rate for the total amount assured, or for the *bonâ fide* value. |
| 37.—DEEDS OF MORTGAGE given for the security of annuities for an indefinite period, such as life annuities, and the like .. .. .. .. .. | Shall be charged at the rate of ten times the annual payment. |
| 38.—Where the total amount secured by such mortgage is unlimited .. | The deed may be executed on such stamp as the party may choose, but no further sum can be recovered thereon than may be covered by the stamp. |
| 39.—Where it may be stipulated that the amount secured by such mortgage shall not exceed a certain sum .. .. .. .. .. .. | At the rate of such limitation. |
| *Note.*—When a bond may have been already taken for the amount secured, or where, from any other cause, the mortgage shall act merely as a collateral security to some other transaction already charged with the *ad valorem* duty thereupon, the same being specified in the body of the deed of mortgage .. .. .. .. .. .. .. | The deed to be charged as a collateral deed. See note after conveyances. |
| Likewise, in case of there being more deeds than one required to execute the mortgage in the manner desired by the parties, the principal deed only shall be charged with the *ad valorem* duty, and all other deeds connected with the same transaction .. .. .. .. .. .. .. .. | Shall be charged as prescribed in the rule for collateral deeds, under head "Conveyance." |
| 40.—MORTGAGES, ASSIGNMENTS, ACKNOWLEDGMENTS, or promissory notes granted to the treasurer or other officer of the Bank of Bengal on account of the Bank, or to any private banker or agent, for loans or advances made on the deposit of Government securities, bullion, plate, jewels, or other goods .. .. .. .. .. .. .. .. .. .. | To be charged as promissory notes. |
| 41.—PARTITIONS by private agreement of heirs and co-sharers, or made by public officers, of estates or property, real or personal, or in the nature of separation of brotherhood, as amongst Hindoos, when a sharer's portion exceeds in value eight hundred rupees, then on every such sharer's copy of the deed of partition .. .. .. .. .. .. .. .. | Rs. A.<br>8 0 |
| When the sharer's portion shall not exceed eight hundred rupees, then if not exceeding one hundred rupees .. .. .. .. .. .. | 0 8 |
| Exceeding 100 rupees, and not exceeding .. .. 200 rupees .. | 1 0 |
| " 200 " " .. .. 400 " . | 2 0 |
| " 400 " " .. .. 600 " .. | 4 0 |
| " 600 " " .. .. 800 " .. | 6 0 |
| And if any sum or sums of money shall be paid or agreed to be paid for equality of partition .. .. .. .. .. .. .. .. | The principal deed, stipulating for such payment, shall be charged besides with the *ad valorem* duty prescribed for a conveyance or sale for an equal sum. |
| 42.—POLICY OF ASSURANCE, or INSURANCE, or other instrument, by whatever name the same shall be called, whereby an insurance shall be made upon any life or lives, or upon an event depending upon any life or lives. | |
| Where the sum insured shall not exceed .. .. 5,000 .. | 4 0 |
| Exceeding 5,000 not exceeding .. .. .. .. 10,000 .. | 8 0 |
| " 10,000 " .. .. .. .. 20,000 .. | 12 0 |
| " 20,000 " .. .. .. .. 50,000 .. | 16 0 |
| Above .. 50,000 .. | 20 0 |
| 43.—POLICY OF INSURANCE of any ship, vessel, sloop, lighter, boat, or the like, or of any goods or property on board, or upon the freight of any ship, vessel, sloop, lighter, boat, or the like, or upon any other interest relating thereto, or upon any voyage where the premium shall not exceed two per cent. on the sum insured, if the whole sum insured shall not exceed one thousand rupees .. .. .. .. .. .. .. | 0 8 |
| If the sum insured exceed one thousand rupees, then for every one thousand rupees, and also for any fractional part of one thousand rupees whereof the same shall consist .. .. .. .. .. .. .. .. | 0 8 |
| Where the premium shall exceed two per cent. on the sum insured, if the whole sum shall not exceed one thousand rupees . .. .. .. | 1 0 |
| If the sum insured exceeds one thousand rupees, then for every one thousand rupees, and also for any fractional part of one thousand rupees whereof the same shall consist .. .. .. .. .. .. .. .. | 1 0 |

PROMISSORY NOTES.—See "BILLS OF EXCHANGE."

PROMISSORY NOTES, payable at a period exceeding one year after date.—See "BONDS."

44.—PROMISSORY NOTES for the payment of any sum by instalments, *i. e.*, KISTBUNDEES, or for the payment of several sums at different dates, so that the whole of the money to be paid shall be definite and certain .. ..

The same duty as would be chargeable on a bond for the whole amount.

All receipts for money deposited in any bank, or in the hands of any banker or agent, if the same shall stipulate for the payment of interest upon the money so deposited, or in hand, shall be deemed and taken to be promissory notes.

45.—RECEIPTS or DISCHARGES given for any, or upon the payment of any sum of money—

| | | | | | | Rs. | A. |
|---|---|---|---|---|---|---|---|
| Exceeding | 50 rupees, | not exceeding | .. .. | 100 rupees | ... | 0 | 2 |
| ,, | 100 ,, | ,, | .. .. | 200 ,, | .. | 0 | 4 |
| ,, | 200 ,, | ,, | .. .. | 500 ,, | .. | 0 | 8 |
| ,, | 500 ,, | ,, | .. .. | 1,000 ,, | .. | 0 | 12 |
| ,, | 1,000 ,, | ,, | . .. | 2,000 ,, | .. | 1 | 0 |
| ,, | 2,000 ,, | ,, | . .. | 3,000 ,, | .. | 1 | 8 |
| ,, | 3,000 ,, | ,, | .. .. | 5,000 ,, | .. | 2 | 0 |
| ,, | 5,000 ,, | ,, | .. .. | 8,000 ,, | .. | 2 | 8 |
| Above | 8,000 ,, | .. .. | .. .. | .. .. | .. | 4 | 0 |
| Also for a receipt in full of all demands | | | .. .. | .. .. | .. | 4 | 0 |

And any instrument, note, memorandum, or writing, given upon the payment of money, whereby any money, debt, or demand, or the part thereof therein specified, shall be expressed or acknowledged to have been paid, settled, or otherwise satisfied, shall be deemed to be a receipt for the amount so declared to be paid or satisfied. The duty is to be paid by the party giving the receipt, and if a stamped receipt be refused, the party making the payment may provide the stamp, deducting the value thereof from the sum due.

And if any such instrument or other writing shall contain a general acknowledgment of the settlement of debts, accounts, or other demands, without specifying the amount thereof, such instrument or writing shall be deemed and taken to be a receipt in full of all demands, and charged accordingly.

And if payment be made by delivery of a bill or bills of exchange, draft or drafts, promissory note, or the like securities of money, the receipt or acknowledgment given thereupon shall be deemed to be a receipt within the meaning of the Schedule.

## EXEMPTIONS:

Receipts for money paid or received by any officer of Government on account of Government.

Receipts or discharges for the rent of land granted by any zemindar, talookdar, farmer, or other malguzar, or by any holder or proprietor of land held exempt from the payment of revenue, or by any mofussil talookdar, ijaradar, kutkenadar, or other leaseholder, or by the gomashta, factor, or other agent of such zemindar or other person aforesaid, to a ryot or other actual cultivator, for the rent of land tilled by him.

> *Note.*—Receipts or discharges granted by any zemindar, talookdar, or other holder or proprietor of land, or by any farmer, kutkenadar, ijaradar, or other tenant to any other talookdar, kutkenadar, ijaradar, or other leaseholder, intermediate between the ryots or actual cultivators, and the sudder malguzar or lakhirajdar, shall be written on stamped paper of the kind and rates above described.

## EXEMPTIONS—*continued.*

Receipts and discharges given for the purchase-money of any Government securities or shares of the Bank of Bengal.

Receipts and discharges given for money deposited in any bank, or with any agent, to be accounted for on demand, provided no interest be stipulated as payable thereon.

(If interest be stipulated, such receipt shall be chargeable as a promissory note, as above provided.)

Receipts or discharges written upon promissory notes, bills of exchange, drafts or orders for the payment of money duly stamped.

Receipts and discharges given to gomashtas and others, being servants of the party giving the receipts, in acknowledgement of the performance of service, or of the said servants having rendered account of trusts and moneys committed to them.

Letters by the post acknowledging the arrival of any promissory notes, bills of exchange, or other securities for money.

Receipts or discharges written upon or contained in any mortgage-deed, or other security, or any deed of conveyance, settlement, or other instrument duly stamped, acknowledging the receipt of the consideration money therein expressed, or the receipt of any principal money, interest, or annuity thereby secured.

46.—SETTLEMENTS, MARRIAGE SETTLEMENTS, &c., viz.:

Any deed or instrument, whereby any sum or sums of money or any Government securities, or other property, real or personal, shall be settled or agreed to be settled upon, or for the benefit of any person or persons, in any manner whatsoever .. .. .. .. .. .. .. .. — Shall be charged with the *ad valorem* duty chargeable for a bond for the amount of value settled, or agreed to be settled; or in cases in which the value shall be indeterminate, at the rate chosen by the parties, under the rule and condition prescribed for bonds and agreements.

DEEDS OF GIFT and DOWER, whether to take effect on the instant or at a future period, determinate or indeterminate .. .. .. .. .. — Shall be charged as deeds of settlement.

EXEMPTIONS:

Wills, testaments, and the like, together with deeds merely declaratory of trust, pursuant to any previous settlement, deed, or will.

GENERAL EXEMPTION AND RULE:

Deeds, instruments, and writings of any kind, in which Government or any board, commission, court, or public officer of Government, may in a public capacity be a party, shall not be chargeable with any stamp duty.

*Note.*—The foregoing exemption shall not extend to deeds, instruments, and writings executed to or by the Court of Wards, local agents, or officers acting under their authority; such transactions being liable to a stamp duty, like the transactions of individuals.

GENERAL RULE:

If any deed, instrument, or document specified in this schedule shall not be contained in one sheet or piece of paper, or other material, it shall suffice that one sheet shall bear the stamp, provided that the signature or seals of the parties and witnesses be thereupon.

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## SCHEDULE (B), referred to in paragraph 59, containing the Specification of Duties chargeable on Law Papers.

1.—BAIL BONDS, MOCHULKAS, RECOGNIZANCES, SECURITY BONDS (hazir or fial zamin), whether of a specified amount, or with a penalty of a specific sum of money, or of indefinite amount, when furnished and filed under special order of a court of justice, civil or criminal, or of any officer exercising judicial powers .. .. .. .. .. .. .. .. — To be charged as petitions to the court or authority ordering the same.

When executed between individuals, not by order of court .. .. .. — To be charged as bonds. See Schedule (A).

EXEMPTIONS:

Mochulkas taken on the release of persons from the foujdarry or criminal gaol; also mochulkas and recognizances taken from prosecutors and witnesses, to secure attendance at criminal trials.

2.—COPIES OF DECREES in all regular suits for an amount exceeding one hundred and fifty rupees, calculated in the manner explained under the head Plaint:

| | | |
|---|---|---|
| When passed in the courts of the *zillah and city judges*, or by principal sudder ameens, or sudder ameens, empowered to decide the same .. | 1 | 0 |
| In the *Provincial Courts of Appeal* (Zillah and City Courts) .. .. | 2 | 0 |
| In the Sudder Dewanny Adawlut .. .. .. .. .. .. | 4 | 0 |

See sec. ix, Reg. V, 1831; (paragraphs 67 to 69).

3.—COPIES of REVENUE and JUDICIAL PROCEEDINGS, of ACCOUNTS, STATEMENTS, REPORTS, or the like, filed on record, and taken out for use or reference, or when left on proceedings in place of originals withdrawn, per sheet .. .. .. .. .. .. .. .. .. .. .. .. — 0 8

And each sheet shall be of a size not exceeding that fixed for copy paper (No. 3 of the stamp office), and shall be written on one side thereof only.

4.—*Copies of the Proceedings of the Sudder Dewanny Adawlut, prepared for transmission to England, in appeals to the Queen in Council, on paper per sheet of* .. .. .. .. .. .. .. .. .. .. .. — 2 0

Repealed by Act XI, 1839 (paragraph 77).

EXEMPTIONS:

In all cases in whatsoever court tried, involving an amount not exceeding one hundred and fifty rupees, copies of decrees shall be exempt from stamp duty.

5.—EXHIBITS—when filed or entered on the proceedings of any regular suit, shall be accompanied by a petition, durkhaust, or application, stamped according to the number, at a rate for each exhibit of—

| | Rs. | A. |
|---|---|---|
| In the courts of principal sudder ameens, or sudder ameens .. .. | 0 | 8 |
| In the courts of the *zillah and city judges* .. .. .. .. .. | 1 | 0 |
| In the *Provincial Courts* (Zillah and City Courts) before commissioners of revenue and circuit, or in the Sudder Dewanny Adawlut .. .. | 2 | 0 |

See sec. ix, Reg. V, 1831 (paragraphs 67 to 69).

EXEMPTIONS:

In all cases, in whatsoever court tried, involving an amount not exceeding one hundred and fifty rupees, calculated in the manner described under the head "Plaint," the filing of exhibits shall be exempt from stamp duty.

6.—MOKHTARNAMAS, WUKALUTNAMAHS, and other POWERS, required to be filed for the conduct of suits, regular or summary, or of proceedings of any kind, pending before the native courts of judicature, or before the revenue authorities .. .. .. .. .. .. .. .. .. — To be charged as prescribed for petitions presented to those courts and authorities.

EXEMPTIONS:

Mokhtarnamas, executed by native officers and soldiers, belonging to the regular corps, on the military establishment of the presidency of Fort William.

See Act XV, 1845 (paragraph 78).

7.—PETITIONS, DURKHAUSTS, or APPLICATIONS addressed to any of the undermentioned authorities in relation to matters pending before them in their official capacities, when not otherwise specified or provided for in the schedule:

| | | |
|---|---|---|
| If to a principal sudder ameen, sudder ameen, (*or moonsiff?*) or to a collector of land revenue or of customs, or to an officer of the salt and opium department exercising judicial powers, or to a magistrate, joint magistrate, or to a *Zillah or City Adawlut*, per sheet .. .. | 0 | 8 |
| If to a *Provincial Court of Appeal* (Zillah and City Court) or commissioner of revenue and circuit, or other authority exercising powers superior to the *Zillah Adawlut* .. .. .. .. .. .. | 1 | 0 |
| If to the Sudder Dewanny or Nizamut Adawlut, or to the Sudder Boards of Revenue, per sheet .. .. .. .. .. .. .. | 2 | 0 |

EXEMPTIONS:

All charges and informations respecting crimes and offences, not bailable under the Regulations.

Petitions from prisoners, convicts, persons under examination, or otherwise in duress, or under restraint of the court or its officers.

Petitions of appeal presented to magistrates against chowkeedarry assessment.

Communications made to magistrates in regard to police matters not intended for record.

Petitions to collectors or officers making settlements relating to matters connected with the assessment of lands, the ascertainment of rights, or to other matters affecting the settlement of the Government revenue on land, if presented pending the formation of such settlements.

Petitions to Boards or Commissioners of Revenue relating to the same.

8.—PLAINT, PETITION OF—in SUITS and APPEALS INSTITUTED in any NATIVE COURT—for the recovery of any sum of money, or to obtain possession of any interest, matter, or thing:

| | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| If the amount or value of the property claimed shall not exceed | | | | | | 16 rupees | | | 1 | 0 |
| Above | 16 | rupees, | not exceeding | | | 32 | „ | | 2 | 0 |
| „ | 32 | „ | | | | 64 | „ | | 4 | 0 |
| „ | 64 | „ | | | | 150 | „ | | 8 | 0 |
| „ | 150 | „ | | | | 300 | „ | | 16 | 0 |
| „ | 300 | „ | | | | 800 | „ | | 32 | 0 |
| „ | 800 | „ | | | | 1,600 | „ | | 50 | 0 |
| „ | 1,600 | „ | | | | 3,000 | „ | | 100 | 0 |
| „ | 3,000 | „ | | | | 5,000 | „ | | 150 | 0 |
| „ | 5,000 | „ | | | | 10,000 | „ | | 250 | 0 |
| „ | 10,000 | „ | | | | 15,000 | „ | | 350 | 0 |
| „ | 15,000 | „ | | | | 25,000 | „ | | 500 | 0 |
| „ | 25,000 | „ | | | | 50,000 | „ | | 700 | 0 |
| „ | 50,000 | „ | | | | 1,00,000 | „ | | 1,000 | 0 |
| „ | 1,00,000 | „ | | | | | | | 2,000 | 0 |

*Note.*—In suits for lands paying revenue to Government, if forming one entire mehaul, or a specific portion thereof, with a defined jumma, the value shall be assumed in the Ceded and Conquered Provinces, including Cuttack, at the amount of the annual jumma payable to Government on account of the mehaul, or portion thereof, as aforesaid; and where the land has been assessed in perpetuity, at three times the amount of the annual jumma.

In suits for lakhiraj lands, *i. e.* lands not paying revenue to Government, the value shall be assumed at eighteen times the amount of annual rent by computation.

In suits for damages, compensation for injury, loss of caste, and the like, the amount shall be computed at the rate assumed by the plaintiff.

In suits for houses, gardens, and other things of value, real or personal, not of the descriptions before specified, as well as for any interest in mulguzaree land, not capable of valuation under the above rule, the amount shall be computed according to the estimated selling price, and every plaint shall specify the value of the thing claimed, and if the value thereof be understated, in the proportion of ten per cent., and the plaintiff have not before completion of the pleadings filed a second or duplicate plaint on stamped paper equal to the difference, under the rule contained in clause 1st, section vii, Regulation XXVI, of 1814 (paragraph 9), the defendant shall be entitled, on adducing proof of the same, to obtain a nonsuit; to which effect the courts are hereby required to pass judgment in such cases, anything in the existing Regulations to the contrary notwithstanding.

9.—PLEADINGS, JUDICIAL, every ANSWER, REPLICATION, REJOINDER, and SUPPLEMENTARY PLEADING, filed in any suit, shall be written as follows:

| | Rs. | A. |
|---|---|---|
| In the courts of the principal sudder ameen, or sudder ameen, on paper of value .. .. .. .. .. .. .. .. .. | 0 | 8 |
| In the *Zillah and City Courts* .. .. .. .. .. .. .. | 1 | 0 |
| In the *Provincial Courts of Appeal* (Zillah and City Courts), and in the Sudder Dewanny Adawlut .. .. .. .. .. .. .. | 4 | 0 |

See sec. ix, Reg. V, 1831; sec. iii, Reg. VII, 1832, (paragraphs 67 to 69 and 72), and cl. 1, sec. x, Act XV, 1853 ("PROCEDURE ON THE TRIAL OF APPEALS," paragraph 67.)

*Note.*—The pleadings in extraordinary courts, shall be regulated by the rules of practice established, or that may be established by those courts respectively.

EXEMPTIONS:

In all cases, in whatsoever court tried, involving an amount not exceeding one hundred and fifty rupees, calculated in the manner described under the head "plaint," the pleadings shall be exempt from stamp duty.

10.—RAZEENAMAHS, RUFANAMAHS, SOOLUHNAMAHS, or the like, that is to say—

Any written application, whereby, or according whereunto, a suit pending in a civil court shall be adjusted, or be capable of adjustment without argument in court, and award of the presiding judge or other officer .. — Shall bear the stamp required for a pleading in the court wherein it may be filed.

If the suit be dismissed on such application, before the pleadings have been completed and the case called up, the plaintiff shall be entitled to claim from the court a certificate, stating the amount of stamp duty paid on the plaint, with specification of the number and endorsement of the paper filed, on presenting which to the collector of the district, the plaintiff shall be entitled to receive back the entire amount of the said stamp duty: provided always, there be no exception taken to the paper or endorsement thereon.

If the pleadings have been completed, and the case has been called up for decision, or is on the list of causes ready for hearing, the plaintiff shall receive a certificate as above, for half of the amount of stamp duty paid on the plaint.

If the adjustment by razeenamah or sooluhnamah be such as to require decree to pass, on which process of execution can be taken out, the plaintiff shall not be entitled to any refund of the stamp duty so paid.

11.—WITNESSES, PETITIONS, or APPLICATIONS for the summoning or examination of witnesses, according to the number of persons named .. .. — To be charged as exhibits.

And no witness shall be summoned or examined in a regular suit, unless his name is included in a petition or application in writing given in as above.

RULE.

Nothing herein contained shall be deemed or considered to alter or affect the rules in force in regard to paupers.

RULES PASSED SUBSEQUENTLY TO REG. X, 1829.

66. In suits instituted before the moonsiffs, the plaints shall be written upon stamp paper agreeably to the rates specified in Schedule B, referred to in paragraph 59.—Reg. V, 1831, sec. viii, cl. 2.

67. In order to equalize the stamp duties chargeable on law papers in the courts of the Moonsiffs, the rules and exemptions specified in Nos. 2, 4, 5, and 9, in Schedule B, referred to in paragraph 59, are hereby modified as follows.—Reg. V, 1831, sec. ix, cl. 1.

68. In all suits tried in the courts of the Moonsiffs, the pleadings, the applications of parties for the filing of exhibits, as well as for the attendance of witnesses, and the copies of decrees, need not be written on stamp paper.—Reg. V, 1831, sec. ix, cl. 2.

69. The exemptions contained in the foregoing paragraph shall not be held applicable to any original suits or appeals, of whatever amount, which may be instituted in the Zillah or City Courts subsequently to the date fixed for the operation of this Regulation, whether those suits be tried by the zillah or city judges, or be referred by them for trial to the principal sudder ameens or sudder ameens.—Reg. V, 1831, sec. ix, cl. 3.

NOTE.—The foregoing clause would seem to limit the effect of the exemptions in the clause preceding it to suits instituted before the promulgation of Reg. V, 1831, which was passed on the 1st November, 1831. The provision contained in the following section of Act XXVI, 1852, however, appears to recognize the dispensing rules above referred to as still in operation.

70. Nothing in this Act contained shall be construed so as to repeal or otherwise affect the rules regarding the dispensing with the use of stamp paper on certain documents in the courts of the moonsiffs contained in paragraph 68.—Act XXVI, 1852, sec. v.

71. The duties chargeable on law papers in the courts of the principal sudder ameens shall be regulated according to the rates fixed in Schedule B, referred to in paragraph 59, for the courts of the zillah and city judges.—Reg. V, 1831, sec. xx.

72. So much of the rule contained in Schedule B, Regulation X, 1829, as prescribes that the pleadings in the courts of the zillah or city judges shall be written on paper of one rupee value, is hereby modified, and the pleadings in the courts of those officers shall be written on paper of the value of four rupees wherever it has been or may be resolved to introduce the provisions of Regulation V, 1831, except in original suits for property not exceeding one thousand rupees in value or amount, and in cases of appeal from the decisions of sudder ameens and moonsiffs. In such cases the pleadings shall continue to be written on stamp paper of only one rupee value.—Reg. VII, 1832, sec. iii.

73. Whenever a zillah or city judge shall refer for trial to a sudder ameen or principal sudder ameen, a suit within the competency of a moonsiff to decide, such suit shall be subject to the same rules in regard to stamp duties as the said suit would have been subjected to had it been received by the moonsiff in the first instance.—Act XXV, 1837, sec. v.

74. Whenever a zillah or city judge shall refer for trial to a principal sudder ameen a suit within the competency of a sudder ameen to decide, such suit shall be subject to the same rules in regard to stamp duties as the said suit would have been subjected to had it been referred to and tried by the sudder ameen in the first instance.—Act XXV, 1837, sec. viii.

75. In all suits which in respect to value are cognizable by a sudder ameen, the same stamps shall be sufficient in any other court as would have been sufficient in the court of sudder ameen.—Act IX, 1844, sec. v.

76. *No stamps required for cases in formâ pauperis.*—Act IX, 1839, sec. ii. (See "PROCEDURE ON THE TRIAL OF ORIGINAL SUITS," paragraph 295.)

77. *No stamps required in appeals to the Queen in Council.*—Act XI, 1839. (See "PROCEDURE ON THE TRIAL OF APPEALS, paragraph 134.)

78. *No stamps required for cases in which native officers and soldiers are parties.*—Act XV, 1845, secs. iii to v. (See "MILITARY," paragraphs 249 to 251.)

79. A petition for the review of an order rejecting a special appeal shall be written on paper stamped with a Government stamp of the value of two rupees a sheet.—Act XVI, 1853, sec. ix, cl. 3.

RULES IN FORCE IN CALCUTTA ONLY.

80. A stamp duty shall be levied, raised, and paid within the precincts of the city of Calcutta, upon the deeds, instruments, and writings, and according to the rates specified in the schedule annexed to this Regulation, from and after the 1st May, 1827, and no instrument, deed, or writing of the descriptions specified in the said schedule (saving of course what may be therein declared to be exempted) shall be written or printed on any vellum, parchment, paper, tar-leaf, or other

material applicable to such purpose, except the same shall have been duly stamped according to the rules of this Regulation.—Reg. XII, 1826, sec. ii.

81. The duty hereby directed to be levied, raised, and paid in Calcutta, shall be under the care and management of the Board of Revenue at the presidency, or of such other commissioner or commissioners as the Governor-General in Council may from time to time appoint; and on notice of such appointment being given in the Government Gazette, the commissioner or commissioners shall possess and exercise all the powers and authorities relative to stamps vested in the Board of Revenue by this or any other Regulation which may hereafter be enacted.—Reg. XII, 1826, sec. iii.

82. A stamp office, at which stamps of the several descriptions provided for by this Regulation shall be prepared and kept in store, shall be established at such house, building, or place within the city of Calcutta as the Governor-General in Council may deem suitable for the purpose, and the same shall be under the charge of an officer to be denominated Superintendent of Stamps in Calcutta, who shall, in all matters connected with the execution and due enforcement of this Regulation, be subject to the orders of the Board of Revenue. The superintendent shall keep an exact account of all stamps impressed or manufactured by the Government officers, as well as of all issues from the depôt, and of the quantity of stamped paper, vellum, or parchment of each description remaining in store: he shall likewise prepare and submit to the Board of Revenue such periodical reports and statements as may be required by that authority.—Reg. XII, 1826, sec. iv.

83. For every sum charged, or purported to be charged as stamp duty on any vellum, parchment, paper, or other material, two stamps shall be impressed on such material, each of which shall specify in the English, Persian, and Bengalee character, the amount of the sum charged—one of the said stamps shall be affixed at the Stamp Office, and shall bear, besides the value as above, the words "Stamp Office," in the English character, with any further device or legend which the Board of Revenue may see fit to direct. The other impression shall be a counter-stamp, to be impressed at the General Treasury, bearing similarly, along with the amount of duty levied, the words "General Treasury," in English. No stamped paper shall be used for any purpose, for which the same may be required by this Regulation, except such as may bear both impressions as above directed, together with the signature of the vendor, distributor, or other authorized person, as hereinafter prescribed.—Reg. XII, 1826, sec. v, cl. 1.

84. It shall be the duty of the Board of Revenue or other authority exercising the power of that Board, to provide or cause to be provided proper and sufficient stamps, or dies, for expressing and denoting the several duties and rates specified in the Schedule annexed to this Regulation; and it shall be competent to the Board of Revenue, or other authority aforesaid, if they shall judge it expedient, to direct the employment of two or more stamps, to denote the amount chargeable on any single piece of vellum, parchment, paper or other material; provided, however, that the stamps impressed at the stamp-office of the superintendent of stamps, or other place appointed in lieu of it, shall always correspond in number and value with the counter-stamps, impressed at the General Treasury, and that all dies shall, besides the words denoting their value, contain the following words, that is to say, those used at the office of the superintendent of stamps, or other place aforesaid, shall contain the words "Stamp-Office," and the counter-stamp impressed at the General Treasury, shall similarly contain the words "General Treasury."—Reg. XII, 1826, sec. v, cl. 2.

85. The said Board, or other authority, shall have the power of at any time changing or altering such dies, and of regulating the size, shape, manner, and matter of the impressions at discretion, provided that the stamp to be affixed at the stamp-office do always contain in plain and legible characters the legend prescribed for it in the preceding paragraph, and that the counter-stamp of the Treasury do similarly contain its legend: provided also, that the Board of Revenue, or other authority aforesaid, shall, in the exercise of the powers and functions vested in them by this Regulation, be guided by such special directions as they may receive from the Governor-General in Council in the manner heretofore used in all matters and things belonging to the management of the public revenue.—Reg. XII, 1826, sec. v, cl. 3.

86. An officer, being a civil servant of the Honourable Company, shall be especially appointed by the Governor-General in Council to take charge of the collection of the stamp duty within the city of Calcutta; such officer shall provide for the sale and distribution of the stamps, being answerable to Government for the amount of duty chargeable upon each and every paper, vellum, or parchment received by him for distribution. The collector of the Calcutta stamp duty shall receive such salary or other remuneration as may be appointed by the Governor-General in Council. He shall, in all things connected with the collection of this duty, be subject to the orders of the Board of Revenue, and shall keep such accounts and in such forms as may be prescribed by that authority.—Reg. XII, 1826, sec. vi, cl. 1.

87. The collector of the stamp duty shall hold his office, either in the same house with the stamp-office, or as near to that office as may be practicable. He shall, at all times, be supplied with stamps upon indent by the superintendent, to whom he shall grant receipts in duplicate.—Reg. XII, 1826, sec. vi, cl. 2.

88. It shall be the special duty of the collector of stamps to select proper persons resident in

different parts of the town, for the purpose of vending and distributing stamps on the part of Government. The appointment and removal of such vendors shall be ordinarily made at his recommendation, by the authority of the Board of Revenue. Provided, however, that nothing herein contained shall be construed to preclude the Board of Revenue, or the Governor-General in Council, from causing licenses to be granted without any recommendation from the collector, whenever they shall see fit to issue to him directions to that effect, under the general powers exercised by the Board and by Government over all subordinate officers employed in the management or collection of the public revenue.—Reg. XII, 1826, sec. vi, cl. 3.

89. Every vendor shall be furnished with a license under the seal and signature of the collector; and the appointment of any one to this duty, as well as the withdrawing of any one's license or other discontinuance of his authority to vend, by resignation, death and the like, shall be notified in the Government Gazette, for general information.—Reg. XII, 1826, sec. vi, cl. 4.

90. No person, not licensed after the manner provided in the preceding paragraph (unless he should be otherwise specially authorized by the Board of Revenue), shall be competent to expose stamped paper, parchment, or other material publicly to sale; and any one offending in this respect shall forfeit to Government, for the first offence, the sum of rupees five hundred, and for the second, or any subsequent offence, the sum of one thousand rupees. But nothing herein contained shall be deemed to prevent persons having duly purchased stamped paper from the authorized vendors of Government, or having otherwise obtained such paper from the stamp-office, after the manner hereinafter provided, from transferring the same to others at a price equal to the amount of duty denominated by the stamp or stamps impressed thereon: provided, however, that every person who may so transfer stamped paper shall endorse the same with his signature, in the presence of one or more creditable persons, and the proof that the paper was purchased as aforesaid shall lie with the person so transferring it. Provided also, that if any individual shall sell or buy any stamped paper, or other material bearing, or purporting to bear the Government stamp, for a less price than the amount of the duty denominated by the stamp or stamps thereon impressed, he shall forfeit for each and every piece of paper, or other material so bought or sold by him, the sum of fifty rupees.—Reg. XII, 1826. sec. vi, cl. 5.

91. For the convenience of merchants and others, who may be desirous of having at all times in their possession papers, parchments or the like, stamped with various impressions, to be used as occasion may require, in the drawing up of instruments of any of the descriptions required to be executed on materials impressed with the Government stamps; it is hereby provided, that any person desirous of obtaining a supply of stamped paper, or other material, shall, on application to the collector of stamps, and the payment into his treasury of the amount chargeable on account of the stamps required, receive a certificate from the collector, stating the amount paid, and the number and value of the stamps required; and on the production of that certificate, together with the necessary quantity of plain paper, parchment, or other material, the superintendent shall cause the same to be immediately stamped at his office, with the stamps specified in the said document, and shall transmit the said papers, parchments, or other materials to the general treasury, to be there impressed with the necessary counter-stamps. Provided, however, that no person shall be entitled to require the collector to grant a certificate in the manner above stated, unless the total value of the stamps for which he may tender payment shall amount to the sum of one hundred rupees. And the number of pieces of paper, vellum, or other material required to be stamped, shall not be less than twenty.—Reg. XII, 1826, sec. vii, cl. 1.

92. No paper, vellum, parchment, or other material shall on any account be received by the superintendent of stamps, to be stamped on account of any individual, unless the same be accompanied with a receipt in full, under the signature of the collector of stamps, for the entire amount of duty which may be required to be impressed thereon, or unless the same be sent him to be stamped, by authority of the Board of Revenue, under the powers vested in that Board by this Regulation. The receipt of the collector shall, in all cases, specify, as well the aggregate amount paid, as the number and description of the stamps required, and the exact number of sheets or pieces on which the same are to be impressed. All such receipts shall be disposed of by the superintendent in such manner as the Board of Revenue may prescribe.—Reg. XII, 1826, sec. vii, cl. 2.

93. The superintendent of stamps shall appoint one or more officer or officers of his establishment to receive and compare with the collector's receipt all papers or the like brought to be stamped as above, and after the stamps shall have been affixed, the same officer shall again count the whole and sign his name at the back of each separate sheet, or piece of paper, or other material; and he shall likewise note on each the date on which the said paper is ready for re-delivery, and further make an entry to that effect, with specification of the quantity of paper or the like impressed with each description of stamp, in a book to be specially kept by him for that purpose. When the paper or other article shall be prepared in the manner above described, it shall be made up into a parcel to be sealed with the superintendent's seal, and shall in that state be forthwith transmitted to the person who may have sent it to be stamped, or at the superinten-

dent's option notice shall be sent of its being ready for delivery when called for.—Reg. XII, 1826, sec. vii, cl. 3.

94. Whenever any person or persons shall desire to send paper or other material to the stamp-office, for the purpose of being stamped, and shall consequently pay the amount of duty in advance in the manner above required, it shall be competent to the collector of stamps, in case the total amount so falling to be paid shall exceed the sum of five hundred rupees in any one payment, to allow to the party making such payment a discount at the rate of four per cent. upon the aggregate amount of duty leviable, or such other rate as may from time to time be appointed by the Governor-General in Council, by notification in the Government Gazette, and the amount of such discount shall be charged and entered on the collector's accounts, under the head of disbursements.—Reg. XII, 1826, sec. vii, cl. 4.

95. It shall also be competent to the Board of Revenue to direct and cause stamps to be furnished in the manner and on the terms prescribed in this section to any licensed vendors, who may be willing to purchase the same; all such persons however, shall, in the sale of stamped paper so furnished to them, be subject to the same rules as are prescribed for the sale of stamps supplied to them on account of Government. Provided, however, that if such vendor shall resign or be dismissed, or his license be otherwise cancelled, then, and in that case he, his representative or assign shall deliver up to the collector of stamps, or to such person as he may appoint to receive the stamped paper, vellum, or the like, furnished to him under the provisions of this section, or such portion as may not have been disposed of, and shall be entitled to recover a sum equivalent to the price which he may have advanced for the same, viz. the specified amount of the stamped paper or other material aforesaid, with a deduction of the discount that may have been allowed on it.—Reg. XII, 1826, sec. vii, cl. 5.

96. If any superintendent or other officer shall fix or impress, or cause to be fixed or impressed, any stamp to or upon any vellum, parchment, paper, or other material which shall be brought to the Stamp Office to be stamped or marked, without a regular certificate from the collector of the amount of duty having been paid, or without special authority in writing from the Board of Revenue, he shall for every such offence forfeit the sum of one thousand rupees. In like manner, if any collector, or other officer appointed to receive the stamp duty, shall grant a certificate of the above description, before the prescribed duty with a deduction of the authorised discount shall have been actually paid, such officer shall forfeit for every such offence the sum of one thousand rupees, besides being held responsible for the amount of duty unrealized.—Reg. XII, 1826, sec. viii, cl. 1.

97. Any native officer or other person causing or procuring any stamp to be fixed or impressed, or any certificate to be granted in the irregular manner aforesaid, or conniving with the officer so fixing or impressing any stamp, or so granting a certificate, shall forfeit for every such offence the sum of one thousand rupees, and shall in addition be held answerable for the amount of duty chargeable on the paper mentioned in the certificate.—Reg. XII, 1826, sec. viii, cl. 2.

98. The following rules are enacted for the control and superintendence of the vendors and distributors authorised to be appointed by paragraph 88.—Reg. XII, 1826, sec. ix, cl. 1.

99. Every person who may be appointed to be a vendor or distributor of stamps on the part of Government, shall attend the Board in person, and execute a bond, with one or more responsible sureties, for the faithful performance of the several duties prescribed for such vendors and distributors in this or any future Regulations, with such penalty and after such form as may be required by the said Board; and any failure in fulfilling the conditions of such bond, shall, besides the penalty thereby provided, subject the offender to immediate dismission from the said office of vendor or distributor, by the Board of Revenue.—Reg. XII, 1826, sec. ix, cl. 2.

100. The following rules shall be observed by all vendors and distributors of stamps, and the bonds executed by those persons on their appointment shall distinctly bind them to a strict observance of those rules, subject in case of failure to the several penalties hereinafter specified. Provided, however, that it shall also be competent to the Board of Revenue to require the vendors and distributors of stamps to come under such further engagements as may appear necessary, and as may be legally required from them.—Reg. XII, 1826, sec. ix, cl. 3.

101. All persons licensed to vend or distribute stamps shall at all times have their respective licenses, together with a copy of the schedule annexed to this Regulation, duly authenticated by the official signature of the collector of stamps, stuck up in a conspicuous place within the shop or building in which they may sell the stamps, and shall further hang up on the outer door of such shop or other building such notification of their being licensed as the Board of Revenue may direct. Any neglect or failure to observe the above rule will subject the party offending to a fine of rupees fifty.—Reg. XII, 1826, sec. ix, cl. 4.

102. All persons as aforesaid shall keep such accounts of the paper received and delivered by them as the Board of Revenue may direct, and shall furnish the collector with such copies or extracts of those accounts, and at such periods, as he may from time to time require. The said persons shall regularly pay to the collector all money or moneys received by them on the sale of

stamps intrusted to them on the account of Government, at such periods as the said officer may appoint, and shall likewise at all times when required permit the collector, or other person duly authorized by him, to inspect the accounts kept by them, and to examine the store of stamped paper, or the like, which they may have in their possession.—Reg. XII, 1826, sec. ix, cl. 5.

103. Any vendor or distributor failing to produce before the collector of the stamp duty any of the accounts required by the Board of Revenue to be kept by him, after requisition made in writing by that officer, and failing to account for such omission to the satisfaction of the Board of Revenue, or other authority exercising the powers of that Board, shall forfeit the sum of fifty rupees, and shall further pay such daily fine for every day beyond the day fixed in such requisition for the production thereof, until the day when the accounts may be produced, as the Board of Revenue may direct. Any vendor or distributor refusing to permit the collector of stamps, or other person duly authorized by a writing under the seal and signature of that officer, to inspect the said accounts and examine the store of stamped paper at the time in the custody of such vendor or distributor immediately upon demand, shall forfeit for every such refusal the sum of one hundred rupees, and shall further be subject to such daily fine, until he complies with the collector's requisition, as the Board of Revenue may direct.—Reg. XII, 1826, sec. ix, cl. 6.

104. No vendor or distributor of stamps shall deliver any stamped paper or the like without having previously received the full amount of the duty denominated by the stamp thereunto affixed; save and except in cases in which he may be otherwise specially permitted or directed by the collector or Board of Revenue.—Reg. XII, 1826, sec ix, cl. 7.

105. Any vendor or distributor who may, without authority, permission, or direction, in writing from the collector or Board of Revenue, sell, give out, or deliver stamped paper, vellum, parchment, or the like, without having received the entire amount of duty denominated by the stamp affixed thereto, shall forfeit for each and every piece of paper, or other material aforesaid so given out or delivered by him, the sum of fifty rupees, besides being held responsible for the amount which should have been taken, in case of its not being afterwards recovered. Any person taking or receiving stamped paper from any such vendor, without having paid the entire amount of duty as aforesaid, shall forfeit the like sum of fifty rupees for each and every piece of paper, &c. received or taken by him.—Reg. XII, 1826, sec ix, cl. 8.

106. All vendors and distributors of stamps shall carefully write on the back of each sheet, or piece of stamped paper, or the like, sold or delivered by them, the date of sale and delivery, and shall attest each endorsement with his signature written in the manner commonly used by him.—Reg. XII, 1826, sec. ix, cl. 9.

107. Any vendor or distributor going out or delivering any stamped paper, or the like, without writing at the back of each sheet or piece his name and the date of sale, and delivery as aforesaid, shall forfeit for each and every piece of paper so given out or delivered by him the sum of fifty rupees, provided the value of the paper sold do not exceed the sum of sixteen rupees; but if the value of the paper so sold without signature exceed the sum of sixteen rupees, then the vendor shall for every offence so committed forfeit a sum equal to three times the value of the paper so illegally sold by him.—Reg. XII, 1826, sec. ix, cl. 10.

108. Any vendor or distributor writing a false date at the back of paper, vellum, or parchment given out by him, shall forfeit the sum of one hundred rupees for every such offence, or if the value of the stamp sold exceed sixteen rupees, then he shall forfeit six times the value of such stamped paper, besides being in both cases liable to the penalty of his bond in case of any breach of its stipulations.—Reg. XII, 1826, sec. ix, cl. 11.

109. All vendors and distributors of stamps shall comply with all applications made to them for the purchase of stamped paper or the like, with as little delay as possible. Any vendor or distributor being applied to for stamped paper or the like, and having in his possession the description of paper required, shall, in case of refusal or wilful delay to furnish the same to the person applying for it, and tendering the value in coin of the established currency, or in notes authorized by Government to be received in payment of the public revenue, forfeit for every such offence the sum of fifty rupees.—Reg. XII, 1826, sec. ix, cl. 12.

110. No vendor or distributor of stamps shall, on any plea or pretext whatsoever, take or demand a higher price for the stamps delivered by him than the sum denoted by the stamp or stamps impressed on the paper, parchment, or the like, so delivered; or any fee, reward, or consideration for furnishing stamps to persons applying for them; and any vendor or distributor who, upon furnishing stamped paper, parchment, vellum, or any other article bearing a stamp, to any individual for use, shall, as a consideration for furnishing the article, or on any other pretext, take or demand as the equivalent of the article so furnished, a higher price than the amount that may be denoted by the impression of the stamp or stamps upon such paper, parchment, vellum, or the like, shall forfeit for every such offence the sum of rupees one hundred.—Reg. XII, 1826, sec. ix. cl. 13.

111. It shall be competent to the collector of stamps to demand, for his personal satisfaction,

such collateral security, in addition to the said bond, as he may deem necessary, to guard against loss from the misappropriation of the stamps delivered to the vendors or distributors, or the embezzlement of the money realized by them, and to require the same to be renewed or other security to be furnished at any time that he may deem the same expedient, and any one unable or refusing to give such security when required, shall not be appointed, or if already appointed shall be liable to have his license immediately withdrawn.—Reg. XII, 1826, sec. ix, cl. 14.

112. When the license of any vendor or distributor may be withdrawn, or when such vendor or distributor shall resign the office, all stamped paper, or other article remaining in store at the time of such removal or resignation, and all accounts regarding the sale and distribution of stamped paper, or the like, at any time delivered to him, together with the balance of all money or moneys, which may have been realized by the sale and distribution thereof up to the date of the said removal or resignation, and which may not have been already paid or accounted for to the collector of stamp duty, and likewise all licenses, orders, or other documents or writings, which the said vendor or distributor may have received from that officer, shall be forthwith delivered over to the said collector, or to such person or persons as he may appoint by a writing under his hand and seal, to take charge thereof, receiving for such part of the stamp paper, or the like, as may have been furnished to him under the provisions of paragraphs 91 to 95, the amount actually paid by him for the same as therein directed. In case any vendor or distributor so removed or resigning shall refuse or fail to make over the said accounts and stores, and the balance of the accounts in cash, or any part thereof, he shall forfeit for such failure or refusal a sum equal to triple the amount and value of the stamps and money which may appear, from the accounts kept at the collector's office, to be in the possession of such vendor or distributor, together with such daily fine, until the papers, accounts, and documents required are furnished, as the Board or other authority aforesaid may direct.—Reg. XII, 1826, sec ix, cl. 15.

113. In case of the death of any vendor or distributor, the collector of the stamp duty shall in like manner be empowered to demand, from the heir or person administering to the estate of the deceased, or other person in charge of his effects, the remainder of any store of stamped paper, vellum, parchment, or the like, in the possession of such vendor or distributor at the time of his decease, together with all accounts of the sale or distribution thereof, as well as all licenses, orders, or other documents or writings as aforesaid, that may be forthcoming amongst the effects of the deceased; and in the event of any refusal on the part of the heir, administrator, or other person in charge of the effects of the deceased, to deliver the same, or of refusal to allow search to be made whenever the collector of the stamp duty may demand to make search for the said stores or accounts, such heir, or administrator, or other person in charge of the estate, shall forfeit for every such offence the sum of fifty rupees, and shall further be subject to such daily fine, until the papers, accounts, documents, and writings required are furnished, as the Board of Revenue may direct.—Reg. XII, 1826. sec. ix, cl. 16.

114. Provided also, that it shall be competent to the collector, in the cases specified in the two preceding paragraphs, as well as in all cases in which a vendor or distributor may fail or delay to account for, and make good the value of any stamped paper, or the like, with which he may have been furnished for sale on account of Government, immediately to call upon the surety or sureties of the said vendor or distributor, to make good the deficiency of money or paper, and on their failure to do so, to proceed against all, or any of them, for the recovery of the amount.—Reg. XII, 1826, sec. ix, cl. 17.

115. All persons appointed by the Board of Revenue to be vendors or distributors of stamps shall verify by affidavit, or affirmation, their respective accounts, whenever they may be required by the Board to do so; and if any vendor or distributor shall refuse or neglect to verify his accounts within such reasonable time as he shall be called upon so to do by the said Board, or any member thereof, he shall for every offence forfeit the sum of five hundred rupees.—Reg. XII, 1826, sec. ix, cl. 18.

116. Should it so happen that any parcel of papers, parchments, vellums, or the like, or any single sheet, or piece thereof that may have been duly stamped, and obtained from a licensed vendor of the stamps direct, or from the Stamp Office, under the rule contained in paragraph 91, shall have been destroyed by fire or other accident, it shall be competent to the Board of Revenue, or other authority exercising the powers of that Board, upon its being proved to the satisfaction of that authority that the said stamps were duly received, and subsequently were destroyed by accident, after the manner asserted, to cause their secretary to grant to the owner of the paper, or other material destroyed, a certificate under his signature, and the seal of the Board, specifying the number and value of the stamps so destroyed, and the said owner shall, upon carrying the said certificate to the Stamp Office, together with such quantity of paper, vellum, or the like, as may be sufficient for the purpose, be entitled, without any fee, charge, or duty whatsoever, to have the paper, vellum, parchment, or the like, so carried to the Stamp Office, stamped or marked for such duties as may be specified in the said certificate; and the superintendent of stamps is hereby

enjoined to cause the same to be stamped and delivered in the same manner as if the paper or other material were accompanied with a certificate of the duty having been paid under the hand and seal of the collector of the stamp duty; provided, however, that a separate account shall be kept of all stamps impressed or affixed by warrant of such certificate.—Reg. XII, 1826, sec. x, cl. 1.

117. In like manner, in case any stamped paper, parchment, vellum, or the like, after having been obtained in a regular manner, shall have become soiled, spoiled, or unfit for use, either by consequence of any accident happening to the same, or because of error in the drawing up or copying of any instrument thereupon, which being discovered before such instrument may be finally signed and executed, shall render the writing of no avail; or in which, by reason of the death or refusal of the party or parties whose signature may be necessary to effect the transaction intended by such writing, it should be incomplete and of no avail: or in which, by the refusal of any office, or trust that may be granted by such instrument, it shall fail of the purpose intended; or in the case of promissory notes, bills of exchange, or the like, if by non-delivery to the payee, or person acting on his behalf, or other cause, they shall never be brought to use. In all such cases, it shall be competent to the Board of Revenue, or other authority exercising the powers of that Board, upon delivery being made of the stamped paper, parchment, or vellum, or the like, so soiled or spoiled, to cause certificate to be granted after the manner provided, in order that the owner of the article or articles so soiled or spoiled, may have the like, or equivalent stamps, impressed upon other materials to be furnished by him for that purpose. But this rule shall not extend to bills of exchange drawn in sets, of which any one of the set may have been delivered to the payee.—Reg. XII, 1826, sec x, cl. 2.

118. Provided, however, that no such certificate shall be granted by authority of the Board of Revenue, except the total value of stamps proved to have been destroyed or soiled by accident, or the total value of every single stamp in the case of the material having been spoiled by being written upon, shall amount to or exceed the sum of ten rupees. Provided likewise, that no such certificate shall be granted, except after proof exhibited that the accident or act, by reason of which the material may have become soiled, or spoiled, or destroyed, or useless, occurred within the period of three calendar months of the date on which application may be made for the certificate. No exception shall be taken to any deed or instrument, on the ground that the stamp which may have been used is not of a proper denomination or rate of duty, provided the same bear an equal or greater value in the whole than the stamp which ought regularly to have been used. —Reg. XII, 1826, sec. x, cl. 3.

119. If any person or persons shall, after the 1st May, 1827, write or engross, or cause to be written or engrossed on any vellum, parchment, paper, or other material, any of the matters or things on account of which such material would be chargeable with stamp duty, under the rules of this or any other Regulation in force, before the said material shall have been duly stamped; or if any person shall, after the said date, in any manner, make, sign, or execute, or accept, or negotiate, any deed or instrument chargeable with a stamp duty, that may not have been executed on paper, or other material duly stamped, such person or persons shall forfeit for every such offence a sum equivalent to twenty times the value of the stamp paper which ought to have been used.—Reg. XII, 1826, sec. xi, cl. 1.

120. Provided, however, that if any person or persons writing or engrossing, or causing to be written or engrossed, any matter or thing chargeable with a stamp duty, upon unstamped paper, vellum, parchment, or the like, or any person or persons accepting or becoming possessed of any deed, instrument, or writing, so written on unstamped paper, or desirous of negotiating or benefiting thereby, shall voluntarily carry the same to the collector of stamps, and shall pay to that officer the entire amount of duty chargeable thereupon, together with the amount hereinafter provided, the collector shall transmit the deed, instrument, or writing, to the superintendent of the stamp-office, for the purpose of being duly stamped, and the person aforesaid shall not be liable to the penalty declared in the preceding paragraph; that is to say, if the deed or instrument originally executed on unstamped paper shall be brought to be stamped in the manner above mentioned, at any time before the money conditioned or directed to be paid, or the act conditioned to be done shall be due, but not later than thirty days from the date of the execution of the deed, instrument, or writing, or (in the case of deeds, instruments, or writings, not conditioning the payment of money, or the performance of any contract within a specific period) at any time within thirty days of the execution of the deed, instrument, or writing, the party shall pay a sum equal to five times the value of the stamped paper which ought to have been used: if the deed or instrument aforesaid shall not be brought in the manner above mentioned, within the period above specified, the party bringing it shall pay a sum equal to ten times the value of the stamped paper which ought to have been used.—Reg. XII, 1826, sec. xi. cl. 2.

121. In case any deed or instrument shall have been executed on paper, parchment, vellum, or other material stamped for a rate or amount of duty less than what may be the rate or amount chargeable on account of the matter or thing that may have been engrossed or written thereupon,

the like penalties shall attach as have been provided by the two preceding paragraphs; that is to say, a sum equal to twenty times the excess of the proper stamp above the value of that which may have been used shall be forfeited, if the error of the stamp be discovered otherwise than by the voluntary production of the party or parties concerned; and a sum equal to five or ten times the said excess, if the party shall voluntarily bring such deed to have the proper stamp affixed within the periods above stated respectively.—Reg. XII, 1826, sec. xi, cl. 3.

122. Provided however, and it is hereby enacted, that in case any deed, or instrument, chargeable with a stamp duty, shall have been executed on unstamped paper or other unstamped material, or on any material bearing a stamp of an amount not equal to the duty chargeable upon such deed or instrument, then if the person executing such deed, or any other party interested, shall establish to the satisfaction of the Board of Revenue, or other authority exercising the powers of that Board, that the irregular execution of the deed or instrument was owing to accident, or inadvertence, or to other unavoidable cause, it shall be competent to the above-mentioned authority, in case they should think proper to do so, to remit part, or the whole of the penalties above enacted, and to cause a proper stamp to be affixed to such unstamped or improperly stamped instrument, on the payment of the actual amount of the duty chargeable thereupon.—Reg. XII, 1826, sec. xi, cl. 4.

123. Provided further, that if the stamp or stamps affixed to any instrument, deed, or the like, be detected to be forged or counterfeit, the full penalty of twenty times the value of the stamp on which the same should have been written, shall, in all cases, be exacted, in addition to the entire amount of duty chargeable for such deed, before the same shall be impressed with the genuine stamps of Government, unless the material on which the same may be executed shall bear the endorsement required by paragraph 93, or paragraph 106, as the case may be, and unless the party having executed, or being at the time in possession of such deed, shall be able to prove to the satisfaction of the Board of Revenue, or other authority exercising the powers of that Board, that the material stamped with a forged stamp was purchased or obtained on the date specified on the back of it, and from the individual whose name may be there signed. If the required matter shall be duly endorsed on the back of any material stamped with a forged impression, and the proof adduced to the fact and date of purchase be deemed by the Board of Revenue to be sufficient, the regular and genuine stamps shall be caused to be affixed on payment of one half the established duty chargeable on account of the matter of the instrument or deed in question, and certificate to that effect shall be given by the Board of Revenue.—Reg. XII, 1826, sec. xi, cl. 5.

124. Any person or persons filing, exhibiting, recording, or causing or procuring to be filed exhibited, or recorded, for the purposes of proof, information, registry, or for any purpose or manner whatsoever, in any court of justice or other public office, any deed, instrument, or other writing required to be written on stamped paper, which may not be written on the prescribed stamped paper, whether the said person or persons be himself the party interested in the case or matter, on account of which such deed, instrument, or writing may be filed, exhibited, or recorded, or be the attorney or agent of such party, shall forfeit to Government a sum equal to twenty times the value of the stamped paper on which such deed, instrument, petition, pleading, or document ought to have been written.—Reg. XII, 1826, sec. xii, cl. 1.

125. If any deed, instrument, or other writing required to be written on stamped paper, and written on the prescribed stamp paper, shall be filed, exhibited, or recorded in any court of judicature, or in any public office, not having the signature of a licensed stamp vendor, or other person duly authorized to sell or distribute stamps, endorsed upon it, the person or persons filing, exhibiting, or recording the said deed, instrument, or writing, or causing or procuring it to to be filed, exhibited, or recorded, shall forfeit a sum equal to five times the value of the said stamped paper.—Reg. XII, 1826, sec. xii, cl. 2.

126. If any deed, instrument, petition, or document shall be filed, exhibited, or recorded as aforesaid, having a forged or counterfeit stamp or signature, the person filing, exhibiting, or recording such deed, instrument, or document, or causing or procuring it to be filed, exhibited, or recorded, shall forfeit to Government a sum equal to twenty times the value of the stamp which ought to have been used, unless the material on which the same may be executed shall bear the endorsement required by paragraph 93, or paragraph 106 as the case may be, and the party shall be able to show that the material stamped with a forged stamp was purchased or obtained on the date specified on the back, and from the individual whose name may be there signed. If the required signature and date shall be duly endorsed on the back of the material stamped as aforesaid, with a forged impression, and the proof adduced to the fact and date of purchase be deemed by the officer before, or in whose office the writing may be filed, exhibited, or recorded to be sufficient, the said officer shall transmit the document to the collector of stamps, with a communication of his judgment in the case, and the collector shall, on payment by the party of one half the established duty chargeable

on account of the matter of the instrument or deed in question, forward it to the superintendent of stamps, in order that it may be duly stamped.—Reg. XII, 1826, sec. xii, cl. 3.

127. If any person shall discover that any deed, instrument, or document in his possession is written on paper, or other material bearing a forged or counterfeit signature or stamp, such paper or other material bearing the signature and date required by paragraphs 93 or 106, as the case may be, and shall state the circumstance to the Board of Revenue, or other authority exercising the powers of that Board, the said person shall, on proving to the satisfaction of that Board, or other authority aforesaid, that the paper or other material in question was purchased or obtained on the date specified on the back, and from the individual whose name may be there signed, be entitled to have the said paper or material duly stamped without any fee or charge.—Reg. XII, 1826, sec. xiii.

128. No exception shall be taken to any deed, instrument, or other writing, on the ground that the stamp which may have been used is not of a proper denomination, or rate of duty, provided the stamp or stamps used equal or exceed in value the stamp or stamps which, under the provisions of this Regulation, ought to have been used.—Reg. XII, 1826, sec. xiv.

129. It shall and may be lawful for the Board of Revenue, the superintendent of stamps, and the collector, or other officers vested with the charge of offices established for the sale and distribution of stamps, to summon witnesses, to administer oaths and affirmations, and to take affidavits and affirmations, in all cases where he or they shall respectively think it necessary to administer or take an oath or oaths, affirmation or affirmations, in any investigation or inquiry into any case relating to the stamp revenue, or any matter or thing connected therewith.—Reg. XII, 1826, sec. xv.

130.—SCHEDULE referred to in the body of the Regulation, containing the Duties chargeable on Instruments of Conveyance, Contract, Obligation, and Security for Money, and on Deeds in general.

| | Rs. | A. |
|---|---|---|
| AGREEMENT, or any minute or memorandum of an agreement concerning any matter or thing of the value of 500 rupees or upwards, not otherwise charged in this Schedule, nor expressly exempted from all stamp duty, whether the same be only evidence of a contract, or obligatory upon the party .. .. .. .. .. .. .. .. | 8 | 0 |
| EXEMPTIONS. | | |
| Memorandum of agreement for the hire of labour. | | |
| Ditto for the sale of goods under the value of 500 rupees, and all agreements carried on by letter and the like, between merchants and other persons residing forty miles from each other. | | |
| ASSIGNMENTS, if not of the nature specified under the heads of conveyances and settlement, nor specially exempted .. .. .. .. | 8 | 0 |
| BILLS OF EXCHANGE, drafts, promissory notes, hoondies, teeps, burats, or other order or obligation, for the payment of money payable (if payable within the provinces subordinate to this presidency) at sight, or at any stated period, not exceeding three months after date, or ninety days after sight (not being a deed, instrument, or writing, bearing the attestation of one or more witnesses), together with all bills of exchange, payable out of the said provinces at whatever date. | | |
| If for a sum of money not exceeding .. .. 25 rupees .. | 0 | 1 |
| Above 25 rupees, and not exceeding .. 50 " .. | 0 | 2 |
| " 50 " " .. 100 " .. | 0 | 4 |
| " 100 " " .. 200 " .. | 0 | 8 |
| " 200 " " .. 400 " .. | 0 | 12 |
| " 400 " " .. 800 " .. | 1 | 0 |
| " 800 " " .. 1,600 " .. | 1 | 8 |
| " 1,600 " " .. 3,000 " .. | 2 | 0 |
| " 3,000 " " .. 5,000 " .. | 2 | 8 |
| " 5,000 " " .. 10,000 " .. | 4 | 0 |
| " 10,000 " " .. 20,000 " .. | 6 | 0 |
| " 20,000 " " .. 30,000 " .. | 8 | 0 |
| " 30,000 " " .. 50,000 " .. | 12 | 0 |
| " 50,000 " " .. 100,000 " .. | 16 | 0 |
| " 100,000 " .. .. .. .. | 20 | 0 |
| Promissory notes written on paper of the above value, shall not be re-issued after payment. | | |
| Promissory notes intended to be re-issued, shall be charged as follows: | | |
| If for a sum of money not exceeding .. .. 25 rupees .. | 0 | 2 |
| Above 25 rupees, and not exceeding .. 50 " .. | 0 | 4 |
| " 50 " " .. 100 " .. | 0 | 8 |
| " 100 " " .. 200 " .. | 0 | 12 |

| | | | Rs. | A. |
|---|---|---|---|---|
| Above | 200 rupees, and not exceeding | 400 rupees | 1 | 0 |
| " | 400 " " | 800 " | 1 | 8 |
| " | 800 " " | 1,600 " | 2 | 0 |
| " | 1,600 " " | 3,000 " | 2 | 8 |
| " | 3,000 " " | 5,000 " | 4 | 0 |
| " | 5,000 " " | 10,000 " | 6 | 0 |
| " | 10,000 " " | 20,000 " | 8 | 0 |
| " | 20,000 " " | 30,000 " | 12 | 0 |
| " | 30,000 " " | 50,000 " | 16 | 0 |
| " | 50,000 " " | 100,000 " | 20 | 0 |
| " | 100,000 " | | 32 | 0 |

*Note.*—The Governor-General in Council reserves to himself the power of admitting any bank or company to compound for the stamp duty chargeable on the notes issued by it.

Notice of such arrangements to be given in the Government Gazette.

| | | | | |
|---|---|---|---|---|
| Foreign bills of exchange, drawn in sets, for every bill of each set, where the sum made payable thereby may not exceed | | 400 rupees | 0 | 8 |
| More than | 400 rupees, but not exceeding | 800 " | 0 | 12 |
| " | 800 " " | 1,600 " | 1 | 0 |
| " | 1,600 " " | 3,000 " | 1 | 8 |
| " | 3,000 " " | 5,000 " | 2 | 0 |
| " | 5,000 " " | 10,000 " | 2 | 8 |
| " | 10,000 " " | 20,000 " | 4 | 0 |
| " | 20,000 " " | 30,000 " | 6 | 0 |
| " | 30,000 " " | 50,000 " | 8 | 0 |
| Exceeding | 50,000 " | | 12 | 0 |

EXEMPTIONS:

Bills of exchange drawn and promissory notes issued by Government officers, having authority to draw bills upon the Government treasuries, or to issue promissory notes, or other acknowledgements on account of Government.

All drafts or orders for the payment of any sum of money on demand, drawn upon any bank, banker, or agent, residing within twenty miles of the place where such draft or order shall be issued, such place being specified on the face of the draft.

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|---|---|---|---|
| BILLS OF LADING, of or for any goods to be exported | | 1 | 0 |
| BILLS OF SALE | | | |
| An absolute bill of sale | | See Conveyances. | |
| Bill of sale, as a security, being the principal or only deed whereby the property is conveyed | | See Mortgage. | |
| Bill of sale, as a security, being merely a collateral one, with some deed or instrument that has paid the *ad-valorem* duty prescribed for conveyances | | 8 | 0 |
| BONDS, tumusooks, promissory notes, or other obligations for the payment of money payable at a period exceeding three months after date, or ninety days after sight. | | | |
| If for any sum not exceeding | 25 rupees | 0 | 2 |
| Above 25 rupees, and not exceeding | 50 " | 0 | 4 |
| " 50 " " | 100 " | 0 | 8 |
| " 100 " " | 200 " | 1 | 0 |
| " 200 " " | 300 " | 2 | 0 |
| " 300 " " | 500 " | 4 | 0 |
| " 500 " " | 1,000 " | 6 | 0 |
| " 1,000 " " | 2,000 " | 10 | 0 |
| " 2,000 " " | 3,000 " | 16 | 0 |
| " 3,000 " " | 5,000 " | 20 | 0 |
| " 5,000 " " | 10,000 " | 32 | 0 |
| " 10,000 " " | 20,000 " | 40 | 0 |
| " 20,000 " " | 30,000 " | 50 | 0 |
| " 30,000 " " | 50,000 " | 64 | 0 |
| " 50,000 " " | 75,000 " | 70 | 0 |
| " 75,000 " " | 100,000 " | 80 | 0 |
| " 100,000 " " | 150,000 " | 100 | 0 |
| " 150,000 " " | 200,000 " | 120 | 0 |
| " 200,000 " | | 150 | 0 |
| Bonds, concerning respondentia and bottomry | | *Ad valorem* as above. | |
| Bonds, given as security for the transfer of Government securities, or for the payment of an annuity, for a fixed period, or for the delivery for accounting for any matter or thing capable of being valued | | Shall be charged at the rate of the amount engaged to be paid, or accounted for, or at the value of the thing to be delivered or transferred. | |
| Bonds, for annuities for an indefinite period, such as life annuities and the like | | Shall be charged at the rate of ten times the yearly payment. | |

| | Rs. | A. |
|---|---|---|
| Bonds, where the amount of the money to be secured or ultimately recovered shall be uncertain and unlimited .. .. .. .. .. | 150 | 0 |
| Where the amount is limited to a certain sum .. .. .. .. | The same as on a bond for such limited sum. | |
| Bonds, taken as collateral security, with some deed or instrument that has paid the *ad-valorem* duty, prescribed for conveyances or money bonds, or as security for the performance of any other contract, covenant or agreement, not being for the payment of money, the transfer of property, or the satisfaction of any pecuniary demand .. .. .. .. .. | 8 | 0 |
| Bonds of indemnity .. .. .. .. .. .. | 8 | 0 |
| Bonds, for the due execution of an office or work, and all other bonds not otherwise charged or exempted from duty .. .. .. .. | | |

EXEMPTIONS:

Arbitration bonds.

Bonds, given to or by the officers of Government on account of any matter or thing of or belonging to the Government in its political or territorial capacity.

Security bonds, which may be taken by, or by order of any court, collector, or other judicial or revenue authority, razeenamahs, sooluhnamahs and ruffanamahs, filed in any suit pending in a court of justice, shall be charged as prescribed in the Regulations already in force or hereafter to be enacted.

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| CHARTER PARTIES, or any agreement or contract for the charter of any ship or vessel, or any memorandum, letter, or other writing between the captain, master, or owner of any ship or vessel, and any other person, for or relating to the freight or conveyance of any money, goods, or effects on board of such ship or vessel .. .. .. .. .. .. | 8 | 0 |

EXEMPTIONS:

Charter-parties of ships or vessels taken up by Government for the conveyance of troops or military stores, or for other political purposes.

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|---|---|---|
| CONTRACTS OR DEEDS, if not otherwise charged nor exempted from duty .. | | |
| COPARTNERSHIP, deeds of .. .. .. .. .. .. | 8 | 0 |
| COMPOSITION, deeds, or other instruments of composition between a debtor or debtors, and his, her, or their creditors .. .. .. .. | | |

CONVEYANCES, whether grant, disposition, assignment, transfer, renunciation, or of any other kind or description whatsoever, upon the sale of any lands, tenements, rents, annuities, or other property, real or personal, heritable or moveable, or of any right, title, interest, or claims in, to, out of, or upon any lands, houses, rents, annuities, or other property; that is to say, for or in respect of the principal or only deed, instrument, or writing, whereby the property sold shall be conveyed to or otherwise vested in the purchaser or purchasers, or to some other person, by his or their direction:

| | | |
|---|---|---|
| Where the purchase or consideration money therein expressed or denoted shall not exceed .. .. .. .. .. 50 rupees .. | 0 | 8 |
| Above 50 rupees, and not exceeding .. 100 " .. | 1 | 0 |
| " 100 " " .. 200 " .. | 2 | 0 |
| " 200 " " .. 500 " .. | 4 | 0 |
| " 500 " " .. 1,000 " .. | 8 | 0 |
| " 1,000 " " .. 2,000 " .. | 12 | 0 |
| " 2,000 " " .. 3,000 " .. | 16 | 0 |
| " 3,000 " " .. 5,000 " .. | 20 | 0 |
| " 5,000 " " .. 8,000 " .. | 32 | 0 |
| " 8,000 " " .. 12,000 " .. | 40 | 0 |
| " 12,000 " " .. 20,000 " .. | 50 | 0 |
| " 20,000 " " .. 30,000 " .. | 64 | 0 |
| " 30,000 " " .. 50,000 " .. | 80 | 0 |
| " 50,000 " " .. 100,000 " .. | 100 | 0 |
| " 100,000 " " .. 200,000 " .. | 150 | 0 |
| And for every further lac of rupees beyond two lacs .. .. | 100 | 0 |

*Note.*—Where of several deeds, instruments, or writings, a doubt shall arise which is the principal, it shall be lawful for the parties to determine for themselves which shall be so deemed, and to engross the same on paper, parchment, vellum, or the like, stamped for the prescribed *ad valorem* duty; provided, however, that in all cases where there are more deeds than one, all other deeds than the principal shall be charged with a stamp duty of eight rupees, and all such deeds shall specify by their contents which other is the principal deed, by which the conveyance has been effected,—certifying, that it is executed in the manner and on the material stamped as required.

EXEMPTIONS:

All grants, leases, sales, or the like, wherein Government, in its political or territorial capacity, is a party.

*Note.*—This exemption shall not extend to sales made for the recovery of arrears of revenue or rent, or in satisfaction of decrees of court, in which cases the purchaser shall be required to pay the prescribed duty along with the purchase-money, and shall receive from the officer conducting the sale, a deed of sale executed on paper impressed with a corresponding stamp.

All transfers of subscriptions to any of the Government loans or other Government securities, also of bank shares.

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| | Rs. | A. |
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| COPIES. Copy in any manner authenticated, or declared to be a true copy, or made for the purpose of being given in evidence as a true copy of any bond, deed, or instrument of agreement, contract, conveyance, or of any other deed or instrument whatsoever chargeable with a stamp duty. | | |
| Where such copy shall be made for the security or use of any person being a party to, or taking any benefit or interest, immediately under such agreement, contract, bond, deed, or other instrument .. .. .. | The same duty as for the original instrument. | |
| Where such copy shall be made for the security or use of any person not being a party to, or taking any benefit or interest, immediately under such agreement, contract, bond, deed, or other instrument .. .. | 8 | 0 |
| Likewise, any copy authenticated, or made as aforesaid of any schedule, receipt, or other matter put or endorsed on, or annexed to any such agreement, contract, bond, deed, or other instrument aforesaid .. .. | 8 | 0 |
| *Note.*—Authenticated copies of any records, letters, accounts, statements, reports, or other writings furnished to individuals, from any of the public offices of Government in Calcutta, shall be written on paper of the value, for each and every sheet, of .. .. .. | 0 | 8 |

EXEMPTIONS:

Copies made for the private use only of any person having the custody of the original instruments, or of his or her attorney or solicitor.

Copies of papers which public officers are directed by any general Regulation to make, require, or furnish, not specially declared chargeable with stamp duty.

Copies of proceedings and decrees of the Sudder Dewanny Adawlut, which shall be charged in the manner and subject to the conditions prescribed in Regulation *I, 1814* (X, 1829), and other subsequent Regulations.

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| | | |
|---|---|---|
| DEEDS of any kind, not otherwise particularized in this schedule .. .. | 8 | 0 |
| EXCHANGES. Any deed whereby any real property shall be conveyed or surrendered in exchange for other property .. .. .. .. | | |
| If no sum of money shall be paid, or agreed to be paid, for equality of exchange | 8 | 0 |
| And if any sum of money be paid, or agreed to be paid, for equality of exchange .. .. .. .. .. .. .. | The same *ad valorem* duty as for a conveyance for such sum. | |
| ENGAGEMENTS to cultivate, provide, or deliver indigo-plant, or to produce, manufacture, provide, or deliver any other article of commerce, in consideration of advance made .. .. .. .. .. | Shall be charged on the amount advanced at the rate of bonds or other obligations for the payment of money payable at a period exceeding three months after date. | |
| LEASES. Any lease made in perpetuity, or for a term of years, or period determinable with one or more lives or otherwise contingent, in consideration of a sum of money paid in the way of premium, fine, or the like, if without rent .. .. .. .. .. .. .. | The same duty as for a conveyance or sale for a sum of the amount of such consideration. | |
| Any lease of lands, houses, or other real property, at a yearly rent, without any payment of any sum of money by way of fine or premium. | | |
| Where the yearly rent shall exceed twelve rupees, but shall not exceed twenty-four rupees .. .. .. .. .. .. .. | 0 | 8 |
| Exceeding 24 rupees, but not exceeding 50 rupees .. | 0 | 12 |
| " 50 " " 100 " .. | 1 | 0 |
| " 100 " " .. 250 " .. | 2 | 0 |
| " 250 " " .. 500 " .. | 4 | 0 |
| " 500 " " .. 1,000 " .. | 8 | 0 |
| " 1,000 " " .. 2,000 " .. | 12 | 0 |
| " 2,000 " " .. 4,000 " .. | 16 | 0 |
| " 4,000 " " .. 6,000 " .. | 20 | 0 |
| " 6,000 " " .. 10,000 " .. | 32 | 0 |
| " 10,000 " " .. 50,000 " .. | 64 | 0 |
| " 50,000 " " .. .. .. | 80 | 0 |

| | | Rs. | A. |
|---|---|---|---|
| Any lease of lands, houses, or other real property, stipulating for a yearly rent, and granted in consideration of a fine or premium .. .. .. | Shall be charged with both *ad valorem* duties above provided. | | |
| The counterpart of any lease charged with a duty exceeding eight rupees, shall likewise be executed on paper, vellum, or parchment, bearing a stamp of .. | | 4 | 0 |

EXEMPTIONS:

All leases, where the annual rent shall not exceed twelve rupees.

All leases or pottahs given by authority of Government, or of the Board of Revenue.

LETTERS, or powers of attorney, or commission, or factory in the nature thereof.

| | | | |
|---|---|---|---|
| Powers to perform any one special, that is to say, particular act, or the acts connected with one particular suit, case, or transaction, or sundry acts to be done, after a manner specified in the instrument .. .. .. | | 2 | 0 |
| General .. .. .. . .. . .. .. | | 4 | 0 |

EXEMPTIONS:

Wukalutnamahs executed to regular pleaders of the Sudder Dewanny Adawlut, or any of the subordinate courts of judicature, authorizing them to prosecute or defend suits therein pending, or to present or make any miscellaneous petition, application, or motion to the court, which are to be charged as prescribed in Regulation *I, 1814* (X, 1829).

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|---|---|---|---|
| LETTERS OF LICENSE from creditors to debtors.. .. .. .. | | 8 | 0 |
| MORTGAGES. Any deed of mortgage or conditional sale, with or without possession given of any lands, estate, or property, real or personal, intended as a security for money due or to be lent thereupon, also any deed or contract, accompanied with a deposit of title-deeds to any property where the same may be made as a security for payment of money due or lent at the time . .. .. .. .. .. . .. | Shall be charged after the same manner and at the same rates as if in lieu of such deed of mortgage, or the like, a bond had been taken for the sum due or lent at the time. | | |
| Deeds of mortgage or the like given as security for the transfer of Government securities, or for the payment of an annuity for a fixed period, or the delivery at a future date of any matter or thing capable of being valued .. .. .. .. . .. | Shall be charged at the rate of the total amount assured, or of the *bonâ fide* value. | | |
| Deeds of mortgage given for the security of annuities for an indefinite period, such as life annuities and the like .. .. .. .. .. | Shall be charged at the rate of ten times the annual payment. | | |
| Where the total amount secured by such mortgage is unlimited .. | | 150 | 0 |
| Where it may be stipulated that the amount secured by such mortgage shall not exceed a certain sum .. .. .. .. .. .. | At the rate of such limitation. | | |
| *Note.*—Where a bond may have been already taken for the amount secured, or where from any other cause the mortgage shall act merely as collateral security to some other transaction, already charged with the *ad-valorem* duty thereupon, the same being specified in the body of the deed or mortgage | | 8 | 0 |
| Likewise in case of there being more deeds than one required to execute the mortgage in the manner desired by the parties, the principal deed only shall be charged with the *ad-valorem* duty, and all other deeds connected with the same transaction .. .. .. | | | |
| Acknowledgments or promissory notes granted to the treasurer or other officer of the Bank of Bengal, on account of the Bank, or to any private banker or agent for loans or advances made on the deposit of Government securities, bullion, plate, jewels, or other goods, and payable within three months after date, shall be charged as promissory notes. If payable at a date exceeding three months, shall be charged as deeds of mortgage. | | | |
| PARTITION.—Any deed of partition of real or personal property adjusted by mutual agreement amongst co-heirs, co-parceners, or the like .. .. | | 8 | 0 |
| And if any sum or sums of money shall be paid or agreed to be paid for equality of partition .. .. .. .. .. .. | The principal deed stipulating for such payment, shall be charged with the *ad valorem* duty prescribed for a conveyance or sale for an equal sum. | | |
| POLICY OF ASSURANCE, or Insurance, or other instrument, by whatever name the same shall be called, whereby an insurance shall be made upon any life or lives, or upon an event depending upon any life or lives. | | | |
| Where the sum insured shall not exceed .. .. 5,000 rupees .. | | 4 | 0 |
| Exceeding 5,000 rupees, not exceeding .. .. 10,000 „ .. | | 8 | 0 |
| „ 10,000 „ „ .. .. 20,000 „ .. | | 12 | 0 |
| „ 20,000 „ „ .. .. 50,000 „ .. | | 16 | 0 |
| Above 50,000 „ .. .. .. .. .. | | 20 | 0 |

| | Rs. | A. |
|---|---|---|
| POLICY OF INSURANCE, of any ship, vessel, sloop, lighter, boat, or the like, any goods or property on board, or upon the freight of any ship, vessel, sloop, lighter, boat, or the like, or upon any other interest relating thereto, or upon any voyage, where the premium shall not exceed two per cent. on the sum insured, if the whole sum insured shall not exceed 1,000 rupees .. | 0 | 8 |
| If the sum insured exceeds 1,000 rupees, then for every 1,000 rupees, and also for any fractional part of 1,000 rupees, whereof the same shall consist .. .. .. .. .. .. .. | 0 | 8 |
| Where the premium shall exceed two per cent. on the sum insured, if the whole sum shall not exceed 1,000 rupees .. .. .. .. | 1 | 0 |
| If the sum insured exceeds 1,000 rupees, then for every 1,000 rupees, and also for any fractional part of 1,000 rupees, whereof the same shall consist .. .. .. .. .. .. .. | 1 | 0 |
| PROMISSORY NOTES, payable to the bearer on demand, at sight, or at any stated period, not exceeding three months after date, or ninety days after sight .. .. .. .. .. .. .. .. | See bills of exchange. | |
| Promissory Notes, payable at a period exceeding three months after date, or ninety days after sight .. .. .. .. .. .. | See bonds. | |
| Promissory Notes, for the payment of any sum by instalments, or for the payment of several sums at different dates, so that the whole of the money to be paid shall be definite and certain .. .. .. .. | The same duty as would be chargeable on a bond for the whole amount. | |
| All receipts for money deposited in any bank, or in the hands of any banker or agent, if the same shall stipulate for the payment of interest upon the money so deposited or in hand, shall be deemed and taken to be promissory notes. | | |
| RECEIPTS OR DISCHARGES given for, or upon the payment of any sum of money not exceeding 32 rupees .. .. .. .. .. | 0 | 1 |
| Exceeding 32 rupees, not exceeding .. .. 100 rupees .. | 0 | 2 |
| " 100 " " .. .. 200 " .. | 0 | 4 |
| " 200 " " .. .. 500 " .. | 0 | 8 |
| " 500 " " .. .. 1,000 " .. | 0 | 12 |
| " 1,000 " " .. .. 2,000 " .. | 1 | 0 |
| " 2,000 " " .. .. 3,000 " .. | 1 | 8 |
| " 3,000 " " .. .. 5,000 " .. | 2 | 0 |
| " 5,000 " " .. .. 8,000 " .. | 2 | 8 |
| Above 8,000 " .. .. .. .. .. .. | 4 | 0 |
| Also for a receipt in full of all demands .. .. .. .. | 4 | 0 |

And any instrument, note, memorandum, or writing, given upon the payment of money, whereby any money, debt, or demand, or the part thereof therein specified, shall be expressed or acknowledged to have been paid, settled, or otherwise satisfied, shall be deemed to be a receipt for the amount so declared to be paid or satisfied.

And if any such instrument or other writing shall contain a general acknowledgment of the settlement of debts, accounts, or other demands, without specifying the amount thereof, such instrument or writing shall be deemed, and taken to be a receipt in full of all demands, and charged accordingly.

And if payment be made by delivery of a bill or bills of exchange, draft or drafts, promissory notes, or the like securities of money, the receipt or acknowledgment given thereupon, shall be deemed to be a receipt within the meaning of this schedule.

## EXEMPTIONS:

Receipts for money paid or received by any officer of Government on account of Government.

Receipts or discharges given for the purchase money of any Government securities, or shares of the Bank of Bengal.

Receipts and discharges given for money deposited in any bank, or with any agent, to be accounted for on demand, provided no interest be stipulated as payable thereon.

If interest be stipulated, such receipt shall be chargeable as a promissory note.

Receipts or discharges written upon promissory notes, bills of exchange, drafts, or orders for the payment of money duly stamped

Letters by the post, acknowledging the arrival of any promissory notes, bills of exchange, or other securities for money.

Receipts or discharges written upon or contained in any bond, mortgage, or other security, or any conveyance, deed, or other instrument duly stamped, acknowledging the receipt of the consideration-money therein expressed, or the receipt of any principal money, interest, or annuity thereby secured.

SETTLEMENTS. Any deed or instrument, whereby any sum or sums of money, or any Government securities, or other property, real or personal, shall be settled or agreed to be settled upon, or for the benefit of any person or persons in any manner whatsoever

Shall be charged with the *ad valorem* duty chargeable for a bond for the amount or value settled or agreed to be settled, or in cases in which the value shall be indeterminate, at the rate of one hundred rupees.

Deeds of gift and dower, whether to take effect on the instant or at a future period, determinate or indeterminate, shall be charged as deeds of settlement

EXEMPTIONS:

Wills, testaments, and the like, together with deeds merely declaratory of trust, pursuant to any previous settlement, deed, or will.

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GENERAL EXEMPTIONS:

Deeds, instruments, and writings of any kind, in which Government or any board, commission, court, or public officer, may in a public capacity be a party, shall not be chargeable with any stamp duty.

# CIVIL JUDICATURE.

## APPENDIX

### TABLE OF ENACTMENTS.

| Original Regulation or Act. | | | Paras. in Consolidation. | REMARKS. |
|---|---|---|---|---|
| | | | | *Benares.* |
| 1795 | VII | ii. to vii. | | Establish a City and Zillah Courts in the Province of Benares, with like jurisdiction as the Zillah Courts in the Lower Provinces, and specially extends to them the provisions of sections vii, viii, ix, to xiii, and xviii to xxi, Regulation III, 1793. ("CIVIL COURTS—CONSTITUTION AND JURISDICTION," and "PROCEDURE ON THE TRIAL OF ORIGINAL SUITS") |
| | | viii. to x. | 1, 3, 4 | |
| | | xi. | | Only extends sections xviii, xix, and xxi, Reg. III, 1793 |
| | | xii. | | Superseded |
| | VIII. | ii. | | Extends to Benares the rules of Reg. IV, 1793 |
| | | iii. | | Same as paragraph 230 "PROCEDURE ON THE TRIAL OF ORIGINAL SUITS" |
| | | iv., 1, 2 | | Same as paragraph 99, *Ibid.* |
| | | iv., 3 | 5 | |
| | | ix. | | Superseded by Act XXIX, 1837 |
| | | x. | 6 | |
| | IX | | | Established Provincial Courts in the Province of Benares, which have ceased to exist under the provisions of Regs. V, 1831, and II, 1833 |
| | X | ii. | | Only extends |
| | | iii. | | Superseded |
| | | iv. | | Superseded by Act XXIX, 1837 |
| | | v. | | Unnecessary |
| | | x. | 2 | |
| | XXVIII. | ii. | 7 | |
| | | | | *Ceded Provinces.* |
| 1803. | II | ii., iii. | | Establish Zillah Courts and declare their jurisdiction generally |
| | | iv. | | Superseded by Act XI, 1836 |
| | | v. | | Same as paragraph 65 "CIVIL COURTS—CONSTITUTION AND JURISDICTION" |
| | | vi. | | Superseded by Act XI, 1836 |
| | | vii. | | Same as paragraph 66 "CIVIL COURTS—CONSTITUTION AND JURISDICTION" |
| | | viii. | 8 | |
| | | ix. | | Same as paragraph 67, *Ibid.* |
| | | x. | 10 | |
| | | xi | | Same as paragraph 69, *Ibid.* |
| | | xii. | | Same as the first part of paragraph 81, *Ibid.* |
| | | xiii. | | Same as paragraph 61, *Ibid.* |
| | | xiv. | | Same as paragraphs 1 and 2 "PROCEDURE ON THE TRIAL OF ORIGINAL SUITS" |
| | | xv. | | Same as paragraph 261, *Ibid.* |
| | | xvi. | | Same as paragraph 94, *Ibid.* |
| | | xvii. | | Same as paragraph 95, *Ibid.* |
| | | xviii., 1, 2 | | Extinct |
| | | xviii., 3 | 11 | |
| | | xix. | | Same as paragraph 229 "PROCEDURE ON THE TRIAL OF ORIGINAL SUITS" |
| | | xx. | | Same as paragraph 7 "RULES COMMON TO COURTS OF ORIGINAL AND APPELLATE JURISDICTION" |
| | | xxi. | | Rescinded |
| | III | ii., iii. | | Same as paragraphs 3 and 4 "PROCEDURE ON THE TRIAL OF ORIGINAL SUITS" |
| | | iv. | | Superseded by Reg. V, 1831 |
| | | v. to vii. | | Same as paragraphs 10, 17, 75, and 76 "PROCEDURE ON THE TRIAL OF ORIGINAL SUITS" |
| | | ix. | | Same as paragraphs 93 and 109, *Ibid* |
| | | x. | | Same as paragraph 23 "RULES COMMON TO COURTS OF ORIGINAL AND APPELLATE JURISDICTION" |
| | | xi. | | Same as paragraph 99 "PROCEDURE ON THE TRIAL OF ORIGINAL SUITS" |
| | | xii. | | Superseded by Act XXIX, 1841 |
| | | xiii | | Included in paragraph 9 "PROCEDURE ON THE TRIAL OF ORIGINAL SUITS" |

| Original Regulation or Act. | Paras. in Consolidation. | REMARKS. |
|---|---|---|
| | | *Ceded Provinces—continued.* |
| 1803. III. xiv., xv. | | Same as paragraphs 15, 16 "PROCEDURE ON THE TRIAL OF ORIGINAL SUITS" |
| xvi., 1 | | Same as paragraphs 230 and 231, *Ibid.* |
| xvi., 2 to 7 | | Same as paragraphs 58 to 61, 64 and 107, "RULES COMMON TO COURTS OF ORIGINAL AND APPELLATE JURISDICTION" |
| xvii. to xx. | | Same as paragraphs 77 to 80 "PROCEDURE ON THE TRIAL OF ORIGINAL SUITS" |
| xxviii. } xxix. } | | Superseded |
| IV. ii. to v. | | Superseded |
| vi., vii. | | Inoperative |
| viii. | | Same as paragraph 142 "PROCEDURE ON THE TRIAL OF APPEALS" |
| ix. | | Same as paragraph 7 "RULES COMMON TO COURTS OF ORIGINAL AND APPELLATE JURISDICTION" |
| x. | | Superseded |
| xi. | | Included in paragraph 21 "PROCEDURE ON THE TRIAL OF APPEALS" |
| xii. | | Repealed by cl. 1, sec. iii, Reg. XXVI, 1814 |
| xiii. | | Included in paragraph 27 "PROCEDURE ON THE TRIAL OF APPEALS" |
| xiv. | | Same as paragraphs 161 and 162 "PROCEDURE ON THE TRIAL OF ORIGINAL SUITS" |
| xviii. | | Same as paragraph 33 "PROCEDURE ON THE TRIAL OF APPEALS" |
| xix. | | Superseded by Acts V, 1840, and VII, 1841 |
| xxi. | | Superseded by Acts XXIX, 1841, and XVI, 1845 |
| xxii. | | Same as paragraph 22 "PROCEDURE ON THE TRIAL OF APPEALS" |
| xxvii. | | Superseded |
| xxviii. | | Same as paragraph 249 "PROCEDURE ON THE TRIAL OF ORIGINAL SUITS" |
| xxix. | | Same as paragraph 29 "PROCEDURE ON THE TRIAL OF APPEALS" |
| xxx. to xxxii. | | Superseded |
| V. ii. | | Rescinded by sec. ii, Reg. VI, 1831 |
| iii. | | Superseded by sec. vii, Reg. VI, 1831 |
| iv., 1 | | Same as paragraph 143 "PROCEDURE ON THE TRIAL OF APPEALS" |
| iv., 2 | | Same as paragraph 47, *Ibid.* |
| v. | | Superseded |
| vi. | | Included in paragraph 7 "RULES COMMON TO COURTS OF ORIGINAL AND APPELLATE JURISDICTION" |
| vii. | | Same as paragraphs 21, 46, and 151 "PROCEDURE ON THE TRIAL OF APPEALS" |
| viii. | | Rescinded by sec. ii, Reg. X, 1806 |
| ix. | | Extinct |
| x., 1 to 8 | | Superseded |
| x., 9 | | Same as paragraph 159 "PROCEDURE ON THE TRIAL OF ORIGINAL SUITS" |
| x., 10 | | Same as paragraph 163, *Ibid.* |
| x., 11 to 13 | | Superseded |
| xi. | | Included in paragraph 27 "PROCEDURE ON THE TRIAL OF APPEALS" |
| xii. | | Same as paragraph 35 "RULES COMMON TO COURTS OF ORIGINAL AND APPELLATE JURISDICTION" |
| xvi. | | Same as paragraph 33 "PROCEDURE ON THE TRIAL OF APPEALS" |
| xvii. | | Superseded by Acts V, 1840, and VII, 1841 |
| xix. | | Superseded by Acts XXIX, 1841, and XVI, 1845 |
| xx. | | Same as paragraphs 22 and 48 "PROCEDURE ON THE TRIAL OF APPEALS" |
| xxi. | | Superseded by Reg. XXVI, 1814, and Act XVII, 1841 |
| xxii. | | Same as paragraph 249 "PROCEDURE ON THE TRIAL OF ORIGINAL SUITS" |
| xxviii. | | Same as paragraph 29 "PROCEDURE ON THE TRIAL OF APPEALS" |
| xxix. | | See paragraph 28 "CIVIL AND CRIMINAL JUDICATURE" |
| xxx. | | Same as paragraph 30 "PROCEDURE ON THE TRIAL OF APPEALS" |
| xxxi. | | Provided for by paragraph 125, *Ibid.* |
| xxxii. to xxxvi. | | Same as paragraphs 125 to 127 and 131 to 133, *Ibid.* |
| xxxvii. | | Rescinded by sec. iv Reg. XXVI, 1814 |
| XVII. ii. to xv. | | Same as paragraphs 154, 165, 205 to 209, 178 to 180, 181 to 186, and 158 "RULES COMMON TO COURTS OF ORIGINAL AND APPELLATE JURISDICTION" |
| xvi. | | Extinct |
| XXI. ii. to ix. | | Same as paragraphs 235 to 242 "PROCEDURE ON THE TRIAL OF ORIGINAL SUITS" |
| 1836. XII. | 9 | |
| | | *Conquered Provinces, and Ceded and Conquered Provinces.* |
| 1805. VIII. | | This Regulation extends the Code of Regulations for the Ceded Provinces to the Conquered Provinces. The following sections are all that are necessary with respect to judicial matters |
| vi., 2 | 12 | |
| vi., 3 | | Parallel provision to paragraph 3 |

| Original Regulation or Act. | Paras. in Consolidation. | REMARKS. |
|---|---|---|
| | | *Conquered Provinces, and Ceded and Conquered Provinces—continued* |
| 1805. VIII. xiii., xxxi. | | CIVIL AND CRIMINAL JUDICATURE. |
| 1813. VII. ii., 1 | | Same as paragraph 182 "PROCEDURE ON THE TRIAL OF ORIGINAL SUITS" |
| ii., 2 | | Superseded by Reg. VIII, 1831 |
| iv | | Superseded |
| | | *Cuttack.* |
| 1805. XIV. ii. | | Superseded |
| iii., iv. | | Establish Zillah Court in Cuttack and declare its jurisdiction |
| v. to vii. | | Extinct |
| viii. | 13 | |
| ix. | | See "Interest" in "RULES COMMON TO COURTS OF ORIGINAL AND APPELLATE JURISDICTION" |
| x., xi. | 14, 15 | |
| 1830. I. ii. | | Rescinds only |
| iii. | | Superseded |
| | | *Various Local Enactments.* |
| 1827. I. iii., iv. | 17 to 24 | |
| 1836. XV. | | Repealed by Act XXXII, 1850 |
| 1843. XXII. | | Unnecessary; only repeals |
| 1850. IX. | | See "Note" in the text |
| i. | 25 | |
| xxv. | 26 | |
| xxix., xxx. | 27, 28 | |
| lxxviii. | 29 | |
| ciii. to cv. | 30 to 32 | |
| cvii. to cxi. | 33 to 37 | |
| XX. | 16 | |
| XXXII. | | Only a repealing enactment |

# TABLE OF DIVISIONS.

| TITLES OF DIVISIONS. | Nos. of Paragraphs. |
|---|---|
| Benares | 1 to 7 |
| Ceded Provinces | 8 to 11 |
| Conquered Provinces | 12 |
| Cuttack | 13 to 16 |
| Bhaugulpore | 17 to 24 |
| Court of Small Causes in Calcutta | 25 to 37 |

# CIVIL JUDICATURE.

## APPENDIX.

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### LOCAL ENACTMENTS.

1. The City Court and Zillah Courts are prohibited hearing, trying, or determining the merits of any suit whatever against any person or persons, to regain the possession of lands or grounds, if the cause of action shall have arisen previous to the 1st of July, 1775, or any suit whatever against any person or persons, if the cause of action shall have arisen twelve years before any suit shall have been commenced on account of it; unless the complainant can show, by clear and positive proof, that he demanded the money or matter in question, and that the defendant admitted the truth of the demand, or promised to pay the money, or that he directly preferred the claim within that period for the matter in dispute to a court of competent jurisdiction, or to the Hakim ul Wukt, or person having authority, whether local or otherwise, for the time being, to hear such complaints, to try the demand, and assign satisfactory reasons to the court why he did not proceed in the suit, or show that, either from minority or other good and sufficient cause, he was precluded from obtaining redress. But from this rule are excepted all claims founded on bonds which shall have been in a course of payment by instalments, or of which any proportion shall have been paid within twelve years previous to the institution of the suit; and also all claims on mortgages, the period for rendering which obsolete and unactionable is to be determined by the law of the religion of the defendant.—Reg. VII, 1795, sec. viii.

2. The Court of Sudder Dewanny Adawlut is vested with a discretionary power, similar to that formerly exercised by the resident, as judge of the Court of Appeal, which existed in the province of Benares previous to the abolition of the residency, of dispensing with that part of the preceding rule which prohibits the courts from taking cognizance of any claims, where the cause of action shall have arisen twelve years before any suit shall have been commenced on account of it, and to issue a precept to the proper court to take cognizance of the suit. The court are to record their reasons for every exercise of this power.—Reg. X, 1795, sec. x.

Note.—This power is, no doubt, no longer exercised, but the enactment does not appear to have been rescinded

3. The City Court and Zillah Courts are prohibited decreeing the payment or satisfaction of any sum due on a tamassook or bond, which may have been entered into after the 1st of July, 1795, unless the bond shall be proved to have been executed in the presence of two credible witnesses, or the payment of the sum demanded on the bond, or some other valuable consideration for it having been received, shall be proved to the satisfaction of the court. But the restriction contained in this paragraph is not to extend to any bills of exchange, receipts, or notes of hand, in the determination on which the custom of the country is to be abided by; nor to the dealings and money transactions amongst mehajuns and shroffs, in which the established customs observed and in force amongst them are to be adhered to by the courts in their inquiries and decisions.—Reg. VII, 1795, sec. ix.

4. The City Court and Zillah Courts are prohibited entertaining any cause which, from the production of a former decrée, or the records of the court, shall appear to have been heard and determined by any former resident, acting resident, or native hakim or superintendent of a court having competent jurisdiction. If any doubt should arise respecting the competency of the former jurisdiction, the judge is to report the circumstances to the Sudder Dewanny Adawlut and wait the instructions of that court.—Reg. VII, 1795, sec. x.

5. Peons deputed to serve summonses or execute process are to receive two annas per day each. —Reg. VIII, 1795, sec. iv, cl. 3.

6. On a written complaint being preferred, in the manner specified in section v, Regulation IV, 1793 ("Procedure on the trial of Original Suits," paragraph 17), either against the Rajah of Benares, or against any of the principal mehajuns of the city of Benares, being such as are

known under the denomination of Nowputty, or against any of the baboos (being persons of the rajah's blood and family), the security required from defendants in the said section shall not be demanded of them; but the court is merely to issue a notice to such defendants, containing a short account of the nature of the demand, and fixing a day for him or them to appear, either in person or by vakeel duly authorized, to answer to the claim; and in case of his or their failing to appear as required, or to conform to all the subsequent established process in the cause, such defendant or defendants shall forfeit the honorary privilege hereby reserved to them, and be dealt with in all respects as other unprivileged defendants. This privilege, however, is to be construed to extend only to the cases above specified, in which such persons may be defendants in the City Court or the Zillah Courts, and to suits which may be directed to be tried in the first instance in the Sudder Dewanny Adawlut, pursuant to orders from the Governor-General in Council, or in the Zillah Court, in conformity to directions from the Sudder Dewanny Adawlut, and not to any cases of appeal in which, whether the appeal be lodged in the Zillah Court or the Sudder Dewanny Adawlut, the said persons are to give the same securities as other persons concerned in appeals in those courts.—Reg. VIII, 1795, sec. x.

7. An office shall be established in the city of Benares, and in the zillahs of Mirzapoor, Ghazeepoor, and Juanpoor, for the registry of wills and deeds for the transfer or mortgage of real property, under the rules prescribed in Regulation XXXVI, 1793, for establishing similar offices in the cities and zillahs in the provinces of Bengal, Behar, and Orissa.—Reg. XXVIII, 1795, sec. ii.

CEDED PROVINCES.

8. The following article, being the sixth article of a treaty concluded with the Nawaub of Furruckabad on the 4th of June, 1802, is hereby enacted into a rule, for the guidance of the Zillah Court of Furruckabad.

"Article VI. The authority of the Court of Adawlut shall not extend to the person of the Nawaub; but as his connections and dependants are undefined, and as it is the object of the British Government to introduce a fair and impartial administration of justice throughout the province of Furruckabad, it is agreed, that whatever complaint may be preferred against any of the Nawaub's dependants, shall in the first instance be referred to the Nawaub; and in the event of the complainant not receiving speedy justice, or being dissatisfied with the Nawaub's decision, the complaint shall be decided in the Adawlut.—Reg. II, 1803, sec. viii.

9. If the holder of a decree passed by the Nawaub of Furruckabad, under the provisions of the preceding paragraph, shall be unable to obtain execution of the said decree by the Nawaub for a period of six weeks (which period of six weeks shall be calculated from the said 1st day of June, if the decree were passed before the said 1st day of June, 1836, and from the time of passing the decree, if the decree were passed on or after the said 1st day of June, 1836), the said holder shall be at liberty to sue out execution of the said decree in the Zillah Court of Furruckabad, and the judge of that court, on application made to that effect, shall execute the decree in the same manner in which a decree of the said Zillah Court is executed.—Act XII, 1836.

10. The Zillah Courts are prohibited from entertaining any cause which, from the production of a former decree or the records of the court or other instrument, shall appear to have been heard and determined by any former judge, superintendent of a court, collector, or other public officer, having competent jurisdiction or authority. If any doubt should arise respecting the competency of the former jurisdiction or authority, the judges are to report the circumstances to the Sudder Dewanny Adawlut, and wait the instructions of that court.—Reg. II, 1803, sec. x.

11. [*The first part of the section contains the general limitation of twelve years.*] Provided however, that it shall not be competent to the Zillah Courts, under the powers vested in them, to hear, try, or determine the merits of any civil suit whatever, if the cause of action shall have arisen previous to the 10th day of November, 1801, the date of the cession of the provinces ceded by the Nawaub Vizier to the Honourable the English East India Company.—Reg. II, 1803, sec. xviii, cl. 3.

CONQUERED PROVINCES.

12. In lieu of the date prescribed by section xviii, Regulation II, 1803, the 30th December, 1803, in the provinces constituting the zillah of Allyghur, the northern and southern divisions of the zillah of Saharunpore, and the zillah of Agra; and the 16th of December, 1803, in the territory constituting the zillah of Bundlecund (being the dates on which the said provinces and territories were respectively ceded to the Honourable the English East India Company), shall be considered the periods of limitation for taking cognizance of suits, subject to the several provisions contained in section xviii, Regulation II, 1803, and in sections ii and iii, Regulation II, 1805 (CIVIL COURTS—CONSTITUTION AND JURISDICTION," paragraphs 73 to 78).—Reg. VIII, 1805, sec. vi; cl. 2.

### CUTTACK.

13. [*The first part of the section contains the general limitation of twelve years.*] Provided, however, that it shall not be competent to the Zillah Courts, under the powers vested in them by this clause, to hear, try, or determine the merits of any civil suit whatever, if the cause of action shall have arisen previous to the 14th day of October, 1803.—Reg. XIV, 1805, sec. viii.

14. The jurisdiction of the Court of Sudder Dewanny Adawlut at Calcutta, is extended to the zillah of Cuttack.—Reg. XIV, 1805, sec. x.

15. The laws and Regulations which now are, or which may be hereafter established in the provinces of Bengal and Behar, and in that part of Orissa heretofore subject to the British Government, for the guidance of the zillah judges, of the judges of the Sudder Dewanny Adawlut, for the administration of justice in civil cases, including the Regulations for the manufacture of salt, and generally regarding all cases and matters subject to the cognizance of the Courts of Civil Judicature in the said provinces, which are not already extended to the zillah of Cuttack, and which are not repugnant to, or inconsistent with, any of the provisions above stated, or with any of the provisions contained in Regulations XII and XIII, 1805, are hereby declared to be in force in that zillah, and in the pergunnahs of Puttespore, Kummardichour, and Bograe; provided, however, that nothing herein contained shall be construed, for the present, to be applicable to the estates of certain hill or jungle rajahs or zemindars, of whom a list is inserted in section xxxvi, Regulation XII, 1805; and provided, likewise, that in cases in which the Bengal language and character are directed to be used in the province of Bengal, the Ooriya language and character shall be used in the zillah of Cuttack and in the above-mentioned pergunnahs.—Reg. XIV, 1805, sec. xi.

16. Whereas certain jungle or hill zemindaries in the zillah of Cuttack, enumerated in section xxxvi of Regulation XII, 1805, of the Bengal code, and the territory of Mohurbunge, in the same zillah, were temporarily exempted by the said Regulation from the Regulations relating to the settlement and collection of the public revenue, and by Regulation XIII, 1805, of the Bengal code, were temporarily exempted from the laws and Regulations for the maintenance of the police, and for the administration of justice in criminal cases, and whereas doubts have been entertained how disputes as to the boundaries of the said zemindaries are to be determined, it is enacted as follows:

Every case in which the boundaries between any of the said zemindaries, or the killahs of Boad and Atmullick, and an estate subject to the Regulations of the Bengal code, shall be in dispute, shall be heard, tried, and determined in the first instance by the superintendent of the tributary mehauls in zillah Cuttack, according to such instructions as he shall from time to time receive from the Governor of Bengal, and his award, when confirmed by the Governor of Bengal, shall be final and conclusive, and shall be carried into execution by the superintendent of tributary mehauls by giving possession of the land in dispute to the parties entitled under his award.—Act XX, 1850.

### BHAUGULPORE.

17. The magistrate of Bhaugulpore is authorized to try summarily, and adjudge all claims for money or personal property arising between the hill people, residing within the limits of the hill divisions, provided the amount or value of the same do not exceed one hundred rupees, and provided the cause of action shall not have been of more than one year's standing.—Reg. I, 1827, sec. iii, cl. 1.

18. Under the same limitation of time, the magistrate is likewise authorized to try and adjudge all claims regarding the situation of manjee, and the right of possession in any hills, and likewise any disputes respecting the limits of the same.—Reg. I, 1827, sec. iii, cl. 2.

19. The magistrate is further authorized to decide summarily on all claims for money and personal property (not exceeding in amount or value the sum of one hundred rupees) which may arise in the Bhaugulpore district (subject to the above specified limitation in point of time) between the hill people and the inhabitants of the low lands.—Reg. I, 1827, sec. iii, cl. 3.

20. In the discharge of the above duties, the magistrate shall observe the rules of process and forms of proceeding prescribed and practised in the investigation and decision of cases of assault and the like; all petitions connected with cases cognizable under these rules shall be written on paper bearing the usual stamp for petitions presented in the Magistrate's Court, and in the summoning and examination of witnesses, as well as in all cases of resistance, contempt, or evasion of process, during the investigation of the cases in question, the provisions of the existing Regulations applicable to cases arising in the court of the magistrates shall apply and regulate the course of proceeding. Provided, however, that upon award being made by the magistrate adjudging any sum to be due, or determining the right of any party in a hill tenure, or other interest or possession, the award shall take effect and be executed as a decree of a civil court,

and the final proceeding of the magistrate in the case shall similarly determine in what manner and by whom the costs, if any, shall be defrayed.—Reg. I, 1827, sec. iii, cl. 4.

21. It shall be competent to the magistrate, whenever in a case of doubt, or for any other reason he may so judge fit, to refer a claim brought before him under these rules to the arbitration of any given number of hill chiefs he may deem proper to appoint; not being less than three.—Reg. I, 1827, sec. iii, cl. 5.

22. Any party deeming himself aggrieved by the award of a magistrate passed under the preceding rules shall be competent to bring the matter by petition, bearing the usual stamp for petitions presented to the Sessions Court, before the Sessions judge holding the next ensuing sessions of jail delivery for the district. The judge so holding the sessions shall, on receipt of such petition, call for the papers and proceedings, and hold such further investigation as he may deem necessary to satisfy himself as to the merits of the award made by the magistrate. Should he deem the same erroneous, or should the proceedings of the magistrate be found irregular or improper in any respect, a report of the case, with the whole proceedings annexed, shall be submitted to the Nizamut Adawlut, who shall be competent to reverse, alter, or amend the award in any manner that may be deemed proper, and to issue any orders upon the subject that may appear expedient.—Reg. I, 1827, sec. iii, cl. 6.

23. It shall be the duty of the magistrate to submit monthly statements to the Sudder Dewanny Adawlut of the number of claims instituted and disposed of by him under these rules. —Reg. I, 1827, sec. iii, cl. 7.

24. The above provisions shall not be held applicable to the pergunnah of Bheel Putta, and the inhabitants of that pergunnah shall be considered subject to the rules contained in the general code, both in matters of civil and criminal jurisdiction.—Reg. I, 1827, sec. iv.

NOTE.—See "CRIMINAL JUDICATURE."

## COURT OF SMALL CAUSES IN CALCUTTA.

NOTE.—The Act IX, 1850, establishing the Court of Small Causes at Calcutta, is limited in its operation to Calcutta, and subjects it to the general authority of the Supreme Court of Judicature. The entire Act is not given in this collection, on the principle which has excluded other enactments which only relate to the jurisdiction of Her Majesty's Courts; but there are a few sections by which the judicial officers of the East India Company's Courts are called upon to act, and those sections are here given.

25. The Court of Requests for the recovery of small debts in the town of Calcutta shall be holden according to the provisions of Act IX, 1850, from and after such day as shall be declared within the said town by proclamation, to be made and published in due form of law by the Governor in Council.—Act IX, 1850, sec. i.

26. The Court shall not have jurisdiction in any matter concerning the revenue, or concerning any act ordered or done by the Governor or Governor-General, or any member of the Council of India, in his public capacity, or done by any person by order of the Governor-General or Governor in Council, or concerning any act ordered or done by any judge or judicial officer in the execution of his office, or by any person in pursuance of any judgment or order of any court, or any such judge or judicial officer, or in any suit for libel or slander.—Act IX, 1850, sec. xxv.

27. Any summons or other process of any court, service of which is needed out of the district of the court, may be exhibited in any court of law, or before any magistrate, and shall be thereupon endorsed by the magistrate or judge of such court, and when so endorsed may be served in like manner as any order or process from such court or magistrate; and such service shall be as valid as if the same had been made by the bailiff of the court out of which such summons or other process shall have issued within the jurisdiction of the court for which he acts. —Act IX, 1850, sec. xxix.

28. Service of any summons or other process of the court, which shall require to be served out of the district of the court, may be proved by affidavit, or solemn affirmation, purporting to be sworn or made before any judge or magistrate; and, in every case of the unavoidable absence of the bailiff by whom any summons or other process of the court has been served, the service of such summons or other process may be proved, if the judges think fit, in the same manner as a summons served out of the district of the court.—Act IX, 1850, sec. xxx.

29. Whenever any defendant, against whom judgment shall have been given in the Court of Small Causes, shall go, before execution thereof, out of the jurisdiction of the court, the judge of any zillah or town where he shall be found, upon receiving from the plaintiff, either in person or by vakeel, an application in writing setting forth these facts, with a duly authenticated copy of the judgment of the court, shall execute the said judgment, in the manner prescribed by law for execution of his own decrees; unless the defendant shall allege any reasonable cause why the judgment should not be executed, and shall give security, to such amount as the judge of such zillah or town shall deem reasonable, that he will, within such time as shall be allowed him for that purpose, either satisfy the judgment or produce a duly authenticated copy of an order of

the judges of the Court of Small Causes, discharging their former judgment.—Act IX, 1850, sec. lxxviii.

30. All penalties, fines, and forfeitures by this Act inflicted or authorized to be imposed (the manner of recovering and applying whereof is not otherwise particularly directed), upon proof before any justice of the peace or magistrate having jurisdiction where the offender shall reside or be, or the offence shall be committed, either by the confession of the party offending, or by the oath or affirmation of any credible witness, shall be levied, with the costs attending the summons and conviction, by distress and sale of the goods and chattels of the party offending, by warrant under the hand of any such justice or magistrate, and the overplus (if any) after such penalties, fines, and forfeitures, and the charges of such distress and sale are deducted, shall be returned upon demand unto the owner of such goods and chattels.—Act IX, 1850, sec. ciii.

31. If any such penalties, fines, and forfeitures respectively, shall not be paid forthwith upon conviction, it shall be lawful for such justice or magistrate to order the offender so convicted to be detained in safe custody until return can conveniently be made to such warrant of distress, unless such offender shall give sufficient security to the satisfaction of such justice or magistrate for his appearance before him on such day as shall be appointed for the return of such warrant of distress, such day not being more than eight days from the time of taking any such security, which security the justice or magistrate shall be empowered to take by way of recognizance or otherwise, as to him shall seem fit.—Act IX, 1850, sec. civ.

32. If upon return of such warrant it shall appear that no sufficient distress can be had thereupon, or in case it shall appear to the satisfaction of the justice or magistrate, either by confession of the offender or otherwise, that he hath not within the jurisdiction of such justice or magistrate, sufficient goods and chattels whereon to levy all such penalties, forfeitures, costs and charges, the justice or magistrate may, at his discretion, without issuing any warrant of distress, commit the offender to the common gaol or house of correction for any time not exceeding three calendar months, unless such penalties, forfeitures and fines, and all reasonable charges attending the recovery thereof, shall be sooner paid and satisfied.—Act IX, 1850, sec. cv.

33. In all cases in which by this Act any penalty or forfeiture is made recoverable before a justice or magistrate, he may summon before him the party complained against, and on such summons may hear and determine the matter of such complaint; and, on proof of the offence, may convict the offender and adjudge him to pay the penalty or forfeiture incurred, and proceed to recover the same, although no information in writing shall have been exhibited before him; and all such proceedings by summons, without information in writing, shall be as valid and effectual to all intents and purposes as if an information in writing had been exhibited.—Act IX, 1850, sec. cvii.

34. In all cases where any conviction shall be had for any offence committed against this Act, the form of conviction may be in the words or to the effect following: (that is to say), "Be it remembered that on this day of in the year A. B. is convicted before , a magistrate for the (or before a judge appointed under Act IX, 1850), of having (state the offence); and I (or we) the said do adjudge the said to forfeit and pay for the same the sum of [or to be committed to for the space of ]. Given under hand ( ) and seal ( ) the day and year aforesaid."—Act IX, 1850, sec. cviii.

35. No order, verdict, or judgment, or other proceeding, made concerning any of the matters aforesaid, shall be quashed or vacated for want of form.—Act IX, 1850, sec. cix.

36. Where any distress shall be made for any sum of money to be levied by virtue of this Act, the distress itself shall not be deemed unlawful, nor the party making the same be deemed a trespasser, on account of any defect or want of form in the information, summons, conviction, warrant of distress, or other proceeding relating thereto, nor shall the party distraining be deemed a trespasser from the beginning, on account of any irregularity which shall afterwards be committed by the party so distraining, but the person aggrieved by such irregularity may recover full satisfaction for the special damage in an action upon the case.—Act IX, 1850, sec. cx.

37. All actions and prosecutions to be commenced against any person for anything done in pursuance of this Act, shall be commenced within three calendar months after the fact committed, and not afterwards, and notice in writing of such action, and of the cause thereof, shall be given to the defendant one calendar month at least before the commencement of the action; and no plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action is brought, or if after action brought a sufficient sum of money shall have been paid into court, with costs, by or on behalf of the defendant.—Act IX, 1850, sec. cxi.

# PREFATORY NOTE TO THE CRIMINAL SECTION.

THE course pursued in the present arrangement and consolidation of the Criminal portion of the Laws in force in the Bengal territories has been, to commence with the general rules of procedure in the prosecution of offenders before the Magistrate and before the Court of Sessions, and then to arrange the rules for the guidance of the Nizamut Adawlut in cases referred to them by the Session Judges.

Next follow the rules applicable to the prosecution and punishment of specific offences: this portion exhibits the amount of punishment to be adjudged according to the degree of each offence, and the modifications of the Mahomedan Law applicable to those cases which are still to be dealt with on the modified principles of that system.

The abstract propositions of Mahomedan Law not applied to specific offences, but laid down in the code as general directions, are collected under the next head; and then follow some general rules respecting punishments and their administration.

The rules relating to jails and prison discipline, and those which regulate the operations of the police, with a few rules of general application in the Criminal Courts which could not well find a place under the foregoing divisions, finish the series.

The Table prefixed to each head or division will show where any part of a regulation which comes under that division will be found.

An APPENDIX is added, of rules having operation only in particular Provinces or Districts.

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| ix. | 20, 35 to 37 | Additions from sec. vii., Reg. XIV., 1810. |
| x. | | A form only. |
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| xxii. | 95 | Amalgamated with sec. xvii., Reg. IX., 1793. |
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| 1825. XX. ii., iv. | 165 to 171 | Sec. iii. repealed by sec. i., Act XI., 1841. |
| 1829. III. iii. | | Incorporated with sec. v., Reg. XVI., 1810. |
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NOTE.—The forms of process, security-bonds, &c., referred to in the rules included in this division are generally omitted, as they are liable to be altered by the Sudder Court, under the authority vested in them by sec. iii., Reg. VII., 1829, and sec. ii., Act. XVII., 1841

# CRIMINAL JUDICATURE.

## MAGISTRATES.

### APPOINTMENT AND OATH.

1. Whenever it is considered expedient to appoint a person, not being the judge of the Civil Court of any zillah or city, to hold the office of magistrate in such zillah or city, or in any part thereof, the Governor-General in Council will make such distinct appointment to the office of magistrate, and direct whether *the judge of the Civil Court* shall, or shall not, exercise a concurrent authority as joint magistrate.—Reg. XVI., 1810, sec. ii., cl. 2.

2. The foregoing provision shall be considered applicable to the superintendents of police, whenever the Governor-General in Council may deem it advisable to invest those officers with the office of magistrate in any zillah or city, or in part thereof.—Reg. XVI., 1810, sec. ii., cl. 3.

3. Every magistrate, or joint magistrate, previously to entering upon the discharge of the duties of his office, shall take and subscribe, before any person whom the Governor-General in Council may commission to administer it, an oath or affirmation according to the following form:—

"I, A. B., appointed magistrate of the zillah (or city) of ———, solemnly swear, that I will, to the best of my ability, preserve the peace of the zillah (or city) over which my authority extends; that I will act with impartiality and integrity, and will not exact or receive, nor knowingly allow any other person to exact or receive, directly or indirectly, any fee, reward, or emolument whatsoever, in the execution of, or on account of any matter relating to the duties of my office, excepting such as the orders of the Governor-General in Council do or may expressly authorize; and that I will perform the duties of my office according to the best of my knowledge, abilities, and judgment, conformably to the Regulations that have been or may be passed by the Governor-General in Council: So help me God."—Reg. IX., 1793, sec. ii.; Reg. III., 1829, sec. iii.; Reg. XXI., 1837, sec. iii.

4. It shall be competent to the Governor-General in Council to authorize a collector of revenue, or other officer employed in the management or superintendence of any branch of the territorial revenues, to exercise the whole or any portion of the powers and duties vested by the Regulations in the magistrates or joint magistrates; such officer so appointed shall, previously to entering upon the execution of such office, take and subscribe the oath prescribed by sec. ii., Reg. IX., 1793, with such verbal alterations only as may be consonant to the nature of the appointment.—Reg. IV., 1821, sec. ii. and sec. iii., cl. 2.

5. Every magistrate, or joint magistrate, or assistant to a magistrate, who may be employed in the collection of the revenue, and every collector or other officer employed in the management or collection of the territorial revenues, who may be authorized to exercise the powers of a magistrate, or joint magistrate, shall be careful to preserve the records of their judicial and revenue offices separate and distinct from each other.—Reg. IV., 1821, sec. v.

6. Every magistrate or joint magistrate shall be guided in the execution of his duties by the Regulations and Acts in force for the guidance of those officers, and, in conformity with the provisions of those enactments, by the orders of the Superior Court of Criminal Judicature and of the Governor-General in Council.—Reg. IV., 1821, sec. iv., cl. 2.

7. In all Acts passed by the Governor-General of India in Council, the term "Magistrate" shall extend to all "Joint Magistrates," "persons lawfully exercising the powers of a Magistrate," and "Justices of the Peace."—Reg. II., 1839, sec. iv.

### JURISDICTION.

8. The special jurisdiction of the magistrates of the several zillahs is to extend throughout the districts included in the zillahs in which they are respectively stationed. The special jurisdiction of the magistrates of cities is to extend throughout those cities respectively, and the places adjacent, that now are or may be subjected to their immediate authority. Provided, however, that the magistrate of the Twenty-four Pergunnahs be not considered to have any jurisdiction or authority whatever in the town of Calcutta, or any places adjacent within the limits of the jurisdiction of the Supreme Court of Judicature.—Reg. IX., 1793, sec. iii.

9. A concurrent jurisdiction is vested in the magistrates of the several zillahs and cities for the apprehension of offenders. It is to be understood, however, that this concurrent authority is to extend only to cases in which the crime or misdemeanor shall have been committed within their respective jurisdictions, or (in the event of the crime having been committed in any other jurisdiction), where the offender was actually within their jurisdiction when the charge against him was preferred to them. And it shall not be lawful for the magistrate of one zillah or jurisdiction to issue a warrant for the apprehension of any offender being or residing in another zillah or jurisdiction at the time of the complaint being preferred to them, for any crime or misdemeanor not committed within the limits of their respective jurisdictions. In such case, the complainant must apply in the first instance to the magistrate of the zillah in which the crime or misdemeanor shall have been committed, or in which the offender may reside or be found. Provided, however, that it shall be competent to the Governor-General in Council, whenever he may deem it advisable, to invest the magistrate of any zillah or city with a general concurrent authority as joint magistrate, in any contiguous or other jurisdiction or jurisdictions, or in any part thereof.—Reg. XXII., 1793, sec. xvi.; Reg. XVI., 1810, sec. iii.

10. No magistrate shall be empowered to try and pass sentence, or to commit for trial at the sessions of jail delivery for his district, any person or persons charged with an offence not perpetrated within its limits, except under special authority of the Governor-General in Council, or of the Nizamut Adawlut. Should, therefore, proceedings have been instituted by any magistrate against any person or persons residing within his jurisdiction, on account of an offence perpetrated beyond its limits, or should it appear in the course of the investigation of any case, that the act charged was not perpetrated within the limit of the zillah or city, but in some other jurisdiction, it shall be the duty of the magistrate who may have commenced proceedings, or who may be conducting the investigation, to send over the parties and witnesses, together with all the proceedings he may have held thereon, to the magistrate of the district within which the crime may appear to have been committed, in order that the parties may be there dealt with according to law; provided, however, that in case the immediate adoption of this course should be attended with very great inconvenience to the parties and witnesses, or in case there should be other circumstances to make it desirable, in his opinion, that the trial should be brought on or completed at the station at which the proceedings may have been instituted, it shall be competent to the magistrate to suspend the transfer above prescribed, and to report the circumstances for the orders of the Nizamut Adawlut.—Reg. VIII., 1822, sec. ii.

11. It shall be competent to the Governor-General in Council, whenever he shall see sufficient reason for ordering the trial of any person or persons, charged with a criminal offence, to be conducted in a different zillah or city from that in which the act may have been perpetrated, to issue his instructions to that effect, and the magistrate of the zillah or city in which the trial is to be conducted, as well as the magistrate of the district from which the case is to be transferred, shall be bound, on the receipt of orders for the purpose under the official signature of a secretary to Government, to proceed to bring the party to trial at the place fixed therein, in the same manner as if the offence charged had been committed within that jurisdiction. Notice of every such order shall be immediately given to the Nizamut Adawlut, and to the Sessions Court for the division within which it is intended that the trial shall take place, and those courts shall be bound to proceed under the existing Regulations, in the same manner as if the trial had been brought on in its proper district.—Reg. VIII., 1822, sec. iii., cl. 1.

12. In like manner, it shall be competent to the Nizamut Adawlut to order a trial to be brought on at the station or jail delivery of any zillah or city magistrate, other than that of the district within which the crime may have been perpetrated, whenever, either from the magistrate's representation, or from other information, it shall appear to the court, on substantial grounds, to be recorded on their proceedings, that such measure will promote the ends of justice, or tend to the general convenience of the parties and witnesses without hinderance thereto. An order under the official signature of the register of the court shall be sufficient authority for the magistrate and Sessions Court to proceed to the trial, any thing in the existing Regulations to the contrary notwithstanding.—Reg. VIII., 1822, sec. iii., cl. 2.

13. When a trial shall be removed from one zillah to be conducted or completed in another, in consequence of an order of Government, or of the Nizamut Adawlut, or when a trial shall be ordered to be carried on in the district where the proceedings may have been instituted, the magistrates and all other officers exercising the function of magistrate of the several districts having relation to the case shall be bound to conform to any instructions they may receive from the authority issuing the orders.—Reg. VIII., 1822, secs. iv. and v.

14. In case of an officer being vested with magisterial powers, and deputed permanently or temporarily to exercise them within a portion of a district, or of an officer's being placed in charge of a tract of country comprising portions of several jurisdictions, it shall in such case be competent to the Governor-General in Council, at the time of creating such an authority, or at any time

subsequently, to determine and prescribe, by an order under the official signature of a secretary to Government, at what station and in what manner prisoners committed to take their trial before the Sessions Court for offences perpetrated within the limits assigned to such officer shall be brought to trial for the same. Notice of every such determination will of course be given to the Nizamut Adawlut, and that court shall be bound to take the necessary steps to carry the same into execution.—Reg. VIII., 1822, sec. vi.

PROCEDURE ON CHARGES PREFERRED, AND ISSUE OF PROCESS THEREON.

15. It shall be the duty of the magistrate to apprehend murderers, robbers, thieves, house-breakers, all disturbers of the peace, and persons charged before him with crimes or misdemeanors. —Reg. IX., 1793, sec. iv.

16. Upon a complaint being preferred in writing to a zillah or city magistrate against any person subject to his jurisdiction, for treason, murder, robbery, house-breaking, theft, setting fire to a village, house, or other building, counterfeiting the coin, or any other crime declared not to be bailable, or though not so expressly declared, involving such dangerous breach of the peace, or degree of criminality, as from the facts deposed to before the magistrate may appear to require the immediate apprehension of the accused, and to render the admission of bail unsafe and improper, the magistrate, on the truth of the charge being deposed to by the complainant, or in the manner required by the following section, shall issue a warrant under his official seal and signature, specifying the crime charged, and directing the officer intrusted with the execution of it to apprehend the person accused.—Reg. IX., 1807, sec. iii., cl. 1.

17. If the magistrate shall, in any bailable case, judge it proper to authorize the officer to whom the warrant is committed to receive bail for appearance (with or without security for keeping the peace), it shall be so specified in the warrant, with the extent of the bail (and security) required.—Reg. IX., 1807, sec. iii., cl. 3.

18. No warrant for apprehension shall be issued at the instance of a complainant, unless the truth of the charge be deposed to on oath (or under a solemn declaration) either by the complainant himself or by some other credible person. This shall not, however, be construed to restrict a magistrate from issuing process to apprehend a person suspected of having committed a heinous crime, or for whose apprehension sufficient cause may appear, upon the report of a police officer or upon any other credible information.—Reg. IX., 1807, sec. iv.

19. If the magistrate see cause to distrust the truth of a complaint preferred to him, whether from the nature of the charge as manifestly improbable, exaggerated, or vexatious, or from the circumstances deposed to before him, considered with the known situation and character of the person accused, and if the immediate arrest of the party complained against appear unnecessary and objectionable, the magistrate is authorized to postpone issuing his warrant for apprehension, and to cause a previous inquiry to be made, either by means of the local police officers, or in such other mode as he shall judge most proper for the purpose of ascertaining the truth or falsehood of the complainant's allegations. If the result of such inquiry induce the magistrate to believe the charge well founded, and the offence committed be of the nature described in para. 16, he shall issue his warrant for apprehending the accused, as therein directed. But if the accusation appear groundless, or, though well-founded, if the offence be of a bailable nature, he is empowered, in the former case, to dismiss the complaint, or in the latter case, to direct bail to be taken from the accused, for appearance, in person or by vakeel, to answer the charge, as provided by the following paragraph. —Reg. IX., 1807, sec. v.

20. If the charge be for manslaughter, or any species of illegal homicide not involving the crime of murder, the magistrate is authorized to proceed, in the first instance, either by warrant for taking into custody, or by summons requiring bail, as he may judge proper, on consideration of the circumstances of the case and of the condition and character of the party accused.—Reg. IX., 1807, sec. ix.

21. Upon a complaint in writing being preferred to a zillah or city magistrate against a person subject to his jurisdiction, for any bailable crime or misdemeanor which may not appear to require the immediate apprehension of the accused, the magistrate, upon the party complaining making an oath or solemn declaration to the truth of the complaint, or without such oath or declaration if satisfactory reason be assigned by the complainant for not attending to make the same, and the truth of the charge be deposed to by some other credible person or persons, shall issue a summons under his official seal and signature, to be served through the foujdarry nazir, by a single chuprassy or peon. If the defendant have an accredited agent at the place where the court is held, duly empowered to receive, on behalf of his constituent, notices or other judicial processes, and if such agent be desirous of giving such acknowledgment in preference to the notice being served on his principal by an officer of the court, and the service of such agent be deemed

expedient, the summons may be tendered to such agent, to be communicated by him to his principal; or if the party complained against be employed in the salt or opium department, then the summons shall be served in the mode directed by the rules in force for serving warrants on charges of bailable offences against persons employed in those departments.—Reg. IX., 1807, sec. vi., cl. 1.; Reg. II, 1806, sec. ii., cl. 2.

22. The summons in all such instances shall specify the offence with which the accused is charged, and shall, according to the circumstances of the case, contain a requisition to attend, either in person or by vakeel, to answer to the charge, on or before a certain day, to be stated in the summons.—Reg. IX., 1807, sec. vi., cl. 2.

23. If an accused person on whom a summons shall have been served, shall not attend in person or by vakeel, and give bail (if required) according to the exigence of the summons within the period limited by it, the magistrate shall issue a warrant, under his official seal and signature, for the apprehension of the accused.—Reg. IX., 1807, sec. vii.

24. Whenever in any criminal case a summons to the defendant is by law the first process, it shall be lawful for any court which has issued a summons, to issue a warrant for the apprehension of the defendant in such case, upon proof that due diligence has been used to serve such summons upon the defendant, and that the officer or other person whose duty it may be to serve such summons upon the defendant has been unable to serve such summons.—Act X., 1845.

25. In cases of a trivial nature, such as abusive language, slight trespasses, and inconsiderable assaults or affrays, in which there may be no reason to apprehend that the party complained against will abscond, bail for appearance shall not be required in the first instance, but may, at any time during the investigation of the charge, be called for by the magistrate, if any circumstances should occur to render it necessary. The officer intrusted with the service of the summons in such cases, as well as in all other cases wherein bail may not be required, shall demand only an acknowledgment of the receipt of it; and in the absence of the party, the summons may be served on the principal person in his house or family, if such person be willing to receive the same, and to return an acknowledgment for the party. The officer serving the summons in such instances, as well as in all cases wherein the magistrate may deem it proper to admit the private adjustment of the parties, shall be further instructed, on the tender of a razeenamah expressing the plaintiff's desire to withdraw his complaint, the defendant's acquiescence in the complaint's being withdrawn, to receive such razeenamah as a sufficient return to the process committed to him. But excepting the trivial cases noticed in this paragraph, no razeenamah shall be received without the special sanction of the magistrate; nor shall any private compromise be admitted by the magistrate in crimes of a heinous nature, such as on conviction may require exemplary punishment for the ends of public justice.—Reg. IX., 1807, sec. viii.

### INVESTIGATION OF CHARGES.

26. All complaints or charges, with the orders upon them, are to be recorded in the office of the magistrate in English, and in such other languages as the Government shall prescribe.—Reg. IX., 1793, sec. xxiii.; Act XXIX., 1837, sec. i.

27. Upon the prisoner being brought before the magistrate, he shall inquire into all the circumstances of the charge likely to lead to the ascertainment of the truth, and shall examine the prisoner and the complainant, and also such other persons as are stated to have any knowledge of the crime or misdemeanor alleged against the prisoner, and commit their respective depositions to writing. He shall likewise be competent to exercise his discretion in taking evidence on behalf of the person accused, with the view to afford him an opportunity of establishing his innocence, before proceeding to commit him to take his trial before the Sessions Court.—Reg. IX., 1793, sec. v.; Reg. VIII., 1830, sec. ii., cl. 1.

28. The magistrates, upon receiving any charge, are to be careful to ascertain from the complainant, and to record upon their proceedings, on what day of the month, in what year, and at what time of the day or night, the act complained of was committed. And when a prisoner confesses before them the crime or misdemeanor with which he may have been accused, or confirms any former confession that he may have made of his having committed such crime or misdemeanor, the magistrates are to be careful to have such confession, or confirmation of a former confession, witnessed by as many of their officers, or other creditable persons who may be present at the time it may be made, as the Mahomedan law requires to give it validity, and to cause such witnesses to be in attendance at the Sessions Court. But the magistrates are strictly enjoined to satisfy themselves that all confessions made by prisoners are free and voluntary; and notwithstanding such confessions, they are invariably to summon, and bind over to attend at the trial before the Sessions Court, the witnesses to the commission of the crime or misdemeanor alleged against the prisoner, that they may be examined before the Sessions Court, in the same manner as if the prisoner had

denied the charge The magistrates are further required to take special care that persons upon being apprehended are not made to suffer corporal punishment, or otherwise ill-treated, under the pretence of compelling them to answer truly to questions that may be put to them, or under any other pretext whatever —Reg IX , 1793, sec vi

29 The complainant and the witnesses shall be examined upon oath or declaration, but the prisoner shall not be required to swear or declare to the truth of his deposition, and no person shall, by reason of any conviction for any offence whatever, be incompetent to be a witness — Reg IX , 1793, sec v , Act XIX , 1837

30 All examinations taken before the magistrate are to be written on separate papers, signed by the deponents, attested by the signature of the magistrate, and arranged according to their respective dates —Reg IX , 1793, sec xv

31 After inquiry, if it shall appear to the magistrate that the crime or misdemeanor charged against the prisoner was never committed, or that there is no ground to suspect him to have been concerned in the committing of it, the magistrate shall cause him to be forthwith discharged, recording his reasons for releasing him, and submitting them to the Sessions Court, with the calendar ordered to be prepared On the contrary, if it shall appear to the magistrate that the crime or misdemeanor was actually committed, and that there are grounds for suspecting the prisoner to have been concerned in the perpetration of it, the magistrate shall cause him to be committed to prison or held to bail (according as the offence may be bailable or not), to take his trial before the Sessions Court, and shall bind over the complainant to appear and carry on the prosecution, and the witnesses to attend and give their evidence further, that the magistrates shall be competent, of their own authority, notwithstanding the existence of grounds of suspicion, to release any person or persons charged before them with any crime or misdemeanor, whenever from the whole of the evidence adduced in support of the charge, and that adduced on behalf of the party charged, there may not appear to be a reasonable probability of a conviction under a committal for trial before the Sessions Court —Reg IX , 1793, sec v , and Reg VIII , 1830, sec ii , cl 2.

32 The magistrates may allow any prosecution to be conducted by an authorized agent, subject to such rules as shall from time to time be made for their guidance by the Nizamut Adawlut —Act XXXVIII , 1850, sec ii

33 The magistrates are strictly prohibited from issuing any process on charges of calumny, abusive language, trespasses and assaults, which ordinarily prove to be unfounded, misrepresented, or greatly exaggerated as well as charges for more heinous offences, without previously examining the prosecutor as to the specific facts of the cases, and satisfying themselves that adequate grounds exist for proceeding against the accused party In cases, likewise, in which the magistrate shall see grounds to distrust the truth of a charge, he shall, previously to issuing process against the accused, summon the witnesses named by the prosecutor, or as many of them as he may judge proper, and examine them as to their knowledge of the facts and circumstances which are the subject of the complaint On occasions on which the magistrate may judge it necessary to make the previous inquiry above noticed, the rules regarding the payment of the subsistence of witnesses shall be duly enforced —Reg III , 1812, sec ii , cl. 6 *

COMMITTAL AND BAIL

34 Persons accused of the following crimes, and against whom there shall appear sufficient grounds for committing them for trial, shall not be admitted to bail, viz. murder, robbery, house-breaking, theft, setting fire to any house, village, or town, or counterfeiting the coin , also persons charged with perjury, subornation of perjury, or forgery, unless specially authorized by the court under whose directions they are committed for trial, shall not be admitted to bail, but nothing herein contained shall be construed to preclude the magistrate from admitting to bail persons committed by him for trial on charges of perjury preferred originally before him, in cases cognizable by him under the Regulations, without any order from a civil or criminal court for the commitment of such persons for trial before the Sessions Court —Reg IX , 1793, sec xii , Reg III , 1804, sec vii , Reg II , 1807, sec v.*

35 After the inquiry directed, if the magistrate shall be of opinion that the facts and circumstances in evidence do not establish the crime of murder, but that there is sufficient ground for bringing the person complained against to trial before the Sessions Court on a charge of manslaughter or other culpable homicide, the party shall be held to bail for appearance before the Sessions Court, but the magistrate is authorized to release the accused, if the homicide in which he may appear to have been concerned shall, from the whole of the evidence, be clearly shown to

* NOTE —The parts in this section which relate to adultery and fornication will be found under the head ' Offences against Women "

have been accidental or justifiable, under the Mahomedan law and the Regulations.—Reg. IX., 1807, sec. ix., cl. 1.

36. The principle of the preceding clause is also declared applicable to persons appearing, from the magistrate's inquiry, to have been only privy, or incidentally accessory to crimes of a heinous nature, without being concerned therein, either as principals or as aiding and abetting, procuring or instigating the perpetration thereof; and in all cases, whether of trial before the magistrate or before the Sessions Court, if the admission of bail have not been prohibited by the Regulations, and the bail tendered shall appear sufficient for securing the appearance of the party accused, he shall be admitted to bail until sentence be passed upon the charge against him.—Reg. IX., 1807, sec. ix., cl. 2.

37. In special instances, wherein the Sessions Court, on a report from the magistrate, or on other satisfactory information before them, may deem it just and proper to admit to bail a person charged with an offence not bailable under the general provisions contained in the Regulations, that court is declared competent to instruct the magistrate to accept sufficient bail, instead of keeping the accused in confinement whilst the charge against him is under trial. The Sessions Court may, likewise, in all bailable cases wherein the bail required by the magistrate shall appear excessive, direct the magistrate to receive such bail as may be deemed sufficient to answer the purpose intended by it. The judges of the Sessions Court are further declared competent to hold to bail, or to direct the magistrates to admit to bail, any prisoner or prisoners whose trials may be referrible to the Court of Nizamut Adawlut, in consequence of the sessions judge not concurring in the futwa of the law officer for the conviction of the prisoner. When the prisoner may not be able to find bail, in such cases the sessions judge shall, with the least possible delay, transmit the proceedings held upon the trial, with a letter stating the grounds on which he may not concur in the futwa of the law officers, to the Court of Nizamut Adawlut.—Reg. IX., 1807, sec. ix., cl. 2; Reg. XIV., 1810, sec. vii.

38. All bail-bonds for prisoners released upon bail, and the recognizances required to be taken from prosecutors and witnesses, shall be for a specific sum, the amount of which shall be determined by the magistrate upon a due consideration of the case and the circumstances and situation in life of the parties, and shall contain a clause declaring the amount forfeited to Government in the event of the condition of it not being performed.—Reg. IX., 1793, sec. v.

39. When a person charged with a criminal offence may have been committed or held to bail by a zillah or city magistrate, or by any public officer authorized to officiate as a magistrate, to stand his trial before a Sessions Court, it shall not be competent to the sessions judge to annul the magistrate's order, and to prevent the regular trial of the person so committed or held to bail.—Reg. VI., 1818, sec. iii., cl. 2.

40. In such cases, however, the sessions judge may instruct the magistrate to admit to bail any person whom he may have committed to close confinement, until they can be brought to trial, if the offence charged shall appear to be of a bailable nature, or though not within the description of offences declared bailable by the Regulations, if the sessions judge shall be of opinion that there is special reason for admitting the prisoner to bail, and sufficient bail be tendered by him for his appearance to stand his trial at the next session of jail delivery.—Reg. VI., 1818, sec. iii., cl. 3.

41. Whenever a person held to bail for his appearance before a Sessions Court shall neglect to attend at the appointed time, the magistrate shall call upon his surety or sureties to produce him, and on their failure, shall report the case, with any reasons assigned by the surety or sureties for the non-fulfilment of their engagement, to the judge holding the session of jail delivery, who will determine and instruct the magistrate, whether the penalty of the security bond shall be immediately enforced, or whether a further time shall be allowed to the surety or sureties to produce the person for whom they are responsible.—Reg. VI., 1818, sec. iv., cl. 1.

42. When the sessions judge, on consideration of the magistrate's report, shall direct the enforcement of the security bond, the magistrate shall proceed to recover the amount of the penalty from the surety or sureties, by the attachment and sale of any property belonging to them, in the mode prescribed for the attachment and sale of property, in satisfaction of decrees of the Civil Courts; or if the amount demandable from the surety or sureties be not paid, and cannot be realized from any property belonging to them, they shall be liable to confinement by order of the magistrate, in the civil jail of the station, during a period not exceeding six months.—Reg. VI., 1818, sec. iv., cl. 2.

43. In all cases of a prisoner being committed, or held to bail, for trial before any Sessions Court, the magistrate who may order him to be so committed or held to bail, shall, immediately after passing such order, question the prisoner whether he wishes to have any witness or witnesses examined in his defence before the Sessions Court; and in the event of his answering in the affirmative, shall issue the customary process to cause such witnesses to attend at the time fixed for the trial of the persons in whose behalf they may be summoned, and shall cause a list of the witnesses named by the prisoner, specifying their designations and places of abode, to be taken

down and recorded upon his proceedings; or in the event of the prisoner's replying in the negative, shall cause his reply to that effect to be recorded on his proceedings, for the information of the Sessions Court.—Reg. IX., 1796, sec. ii.; Reg. IX., 1793, sec. xii.

44. An observance of the foregoing rule will leave all prisoners committed or held to bail for trial before the Sessions Court without any just ground of complaint, that they have not been allowed to bring witnesses in support of their innocence; but as it may happen that, from want of recollection or other cause, a prisoner at the time of his commitment may omit to name a witness whose evidence he may afterwards be desirous to adduce upon his trial, if any person, whether committed or held to bail for trial before the Sessions Court, shall, at any time before the sitting of the Court, desire the examination of any witness or witnesses upon his trial, although the same may not have been named by him at the time of his being committed or held to bail, the magistrates are to be careful to cause the attendance of such witnesses, as well as of those before named, at the time fixed for the trial of the party who may desire their examination.—Reg. IX., 1796, sec. iii.

45. If the magistrate shall commit any zemindar, independent talookdar, or other actual proprietor of land, to be tried before the Sessions Court, he is to notify the commitment to the collector of the zillah, that, if necessary, he may take measures to prevent any delay in the payment of the public revenue assessed upon the lands of the offender.—Reg. IX. 1793, sec. xviii.

46. In all cases of wounding, manifesting a deliberate intention to commit murder, it shall be the duty of the magistrate to commit the prisoner to be tried on that specific charge.—Reg. XII., 1829, sec. ii., cl. 1.

POWERS TO PUNISH.

47. The magistrates are empowered to hear and determine, without any reference to the Sessions Court, all complaints or prosecutions brought before them for petty offences, such as abusive language, calumny, inconsiderable assaults or affrays, and to punish the offender, when convicted, by committing him to prison for a term not exceeding fifteen days, or by imposing a fine upon him; but the fine in no case to exceed the sum of fifty rupees, unless the offender be a zemindar, independent talookdar, or other actual proprietor of land, paying an annual revenue to Government of more than ten thousand rupees, or a proprietor of ayma land paying a quit revenue to Government exceeding five hundred rupees per annum, or of la-khiraj land, the annual produce of which may be above one thousand rupees; in which cases, such offender shall be liable to a fine not exceeding two hundred rupees. The magistrate is to fix the amount of the fine, under the limitations prescribed upon a due consideration of the nature of the case and the situation and circumstances in life of the offender.—Reg. IX., 1793, sec. viii.

48. The magistrates are authorized to hear and determine, without any reference to the Sessions Court, all complaints or prosecutions brought before them for petty thefts, when they shall not have been attended with any aggravating circumstances, or committed by persons of notorious bad characters; and on conviction in cases in which the property stolen shall not exceed in value the sum of fifty rupees, to sentence the person convicted to corporal punishment not exceeding thirty stripes with a rattan, or commit them to prison for a term not longer than one month, according as they may think proper upon a consideration of the circumstances of the case.—Reg. IX., 1793, sec. ix.; Act III., 1844, sec. i.

49. Where in cases of petty offences or petty thefts the complaints shall appear to the magistrate to be litigious, vexatious, or groundless, he is authorized to punish the complainant, by fine or imprisonment, under the limitations and restrictions prescribed for the punishment of the offences specified in Section VIII., Reg. IX., 1793.—Reg. IX., 1793, sec. x.

50. And whereas it is also expedient, that offenders of tender age should be punished rather in the way of school discipline than of ordinary criminal justice:

It shall be competent to a magistrate, and he is required, on conviction in cases of theft of property not exceeding in value the sum of fifty rupees, if the person convicted shall appear to him, by inspection or other evidence, to be of such tender years as to require punishment rather in the way of school discipline than of ordinary criminal justice, to sentence such person to corporal punishment with a light rattan, not exceeding ten stripes.—Act III., 1844, sec. ii.

51. The zillah and city magistrates are further empowered, in all cases of conviction before them of any criminal offence punishable under the Mahomedan law and the Regulations for which the penalties authorized by sections VIII. and IX., Reg. IX., 1793, may appear insufficient, or to which the rules referred to may not be expressly applicable, and for which a more severe punishment than six months' imprisonment *with thirty rattans*, or a fine of two hundred rupees, may not have been specifically prescribed (in which case the prisoner, if there appear grounds for it, must be brought to trial before the Sessions Court), to pass sentence of imprisonment not exceeding six months, with corporal punishment not exceeding thirty rattans, in cases of theft; or in other cases, with a fine not exceeding two hundred rupees, commutable if not paid, to a further

period of imprisonment not exceeding six months; so that the entire period of imprisonment under the sentence of a magistrate shall in no instance exceed one year.—Reg. IX., 1807, sec. xix. (NOTE—the corporal punishment commutable to additional imprisonment.)

52. Whenever any charge preferred before a magistrate shall upon investigation prove manifestly malicious, vexatious, or unfounded, the magistrate is empowered, in extension of the punishment prescribed by Section X., Regulation IX., 1793, to sentence the party by whom the charge shall have been preferred, to such period of imprisonment as, on consideration of the apparent motives and tendency of the said charge, shall appear proper; not exceeding, however, the period of six months.—Reg. VII., 1811, sec. v.

53. Whenever the Regulations enacted before the passing of Reg. II. of 1834 authorize a sentence of corporal punishment in addition to a limited period of imprisonment, it shall be competent to the magistrate to pass an additional sentence of imprisonment for one year.—Reg. II., 1834, sec. ii.

54. In all cases of fines by which offenders are or may be punishable by any magistrate, according to the provisions of any Act heretofore passed or which shall hereafter be passed by the Governor-General of India in Council, it shall be lawful, in case of non-payment, if no other means for enforcing the payment are or shall be provided by such Act or otherwise, for the magistrate, by warrant under his hand, to levy the amount of such fine by distress and sale of any goods and chattels of the offender which may be found within the jurisdiction of such magistrate; and if no such property shall be found within such jurisdiction, then it shall be lawful for every such magistrate, by warrant under his hand, to commit the offender to prison, there to be imprisoned only, or to be imprisoned and kept to hard labour, according to the discretion of such magistrate, for any term not exceeding two calendar months, where the amount of the fine shall not exceed fifty rupees, and for any term not exceeding four calendar months where the amount shall not exceed one hundred rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid upon payment of the amount.—Act II., 1839, sec. i.

55. In all cases in which offenders are or may be punishable by any magistrate with fine or imprisonment, or both, according to the provisions of any Act heretofore passed or which shall hereafter be passed by the Governor-General of India in Council, and where the extreme amount of the fine or imprisonment is not specified, it shall not be lawful for the magistrate to impose any fine exceeding two hundred rupees, or to imprison the offender for any term exceeding six months. —Act II., 1839, sec. ii.

56. In all cases in which offenders are or may be punishable by fine before a magistrate, according to the provisions of any Act heretofore passed or which hereafter shall be passed by the Governor-General of India in Council, it shall be lawful for the magistrate, and he is required to receive proof of the commission of the offence upon oath, or upon solemn affirmation in cases where a solemn affirmation is receivable by law instead of an oath.—Act II., 1839, sec. iii.

57. In all Acts passed by the Governor-General of India in Council, the terms "fine" and "fines" shall extend to all "penalties" and "forfeitures," and the term "magistrate" shall extend to all "joint magistrates," "persons lawfully exercising the powers of a magistrate," and "justices of the peace"—Act II., 1839, sec. iv.

### POWERS FOR THE PREVENTION OF AFFRAYS CONCERNING LAND AND IN CASES OF FORCIBLE DISPOSSESSION.

58. Whenever any magistrate, or other officer exercising the powers of a magistrate, or any assistant magistrate vested with special powers, may be certified that a dispute likely to induce a breach of the peace exists concerning any land, premises, water, fisheries, crops, or other produce of land, within the limits of his jurisdiction, he shall record a proceeding, stating the grounds of his being so certified, and shall call on all parties concerned in such dispute (whether proprietors, dependent talookdars, farmers, under-farmers, ryots, or other persons) to attend his court in person, or by agent, within a reasonable time, and to give in a written statement of their respective claims as respects the fact of actual possession of the subject of dispute; and the magistrate or other officer as aforesaid shall, without reference to the merits of the claims of any party to a right of possession, proceed to inquire what party was in possession of the subject of dispute when the dispute arose, and after satisfying himself upon that point, shall record a proceeding, declaring the party whom he may decide to have been in such possession to be entitled to retain possession until ousted by due course of law, and forbidding all disturbance of possession until such time; and, if necessary, the magistrate, or other officer as aforesaid, shall put such party into possession, and maintain him in possession, until the rights of the parties disputing be determined by a competent court.—Act IV., 1840, sec. ii., and Act XXVII., 1845.

## MAGISTRATES—POWERS FOR THE PREVENTION OF AFFRAYS.

59. If the magistrate, or other officer as aforesaid, shall, in the cases mentioned in the preceding paragraph, be unable to satisfy himself as to what party was in possession of the subject of dispute when the dispute arose, he may attach the subject of dispute until the rights of the parties be determined by a competent court, giving the collector information of the attachment; and if the subject of dispute be land, the provisions of Regulation V. of 1827, regarding attachment by order of a Zillah or City Court shall apply to attachments by order of a magistrate, or other officer as aforesaid, made under this section.—Act IV., 1840, sec. iii.

60. If any party shall complain to a magistrate, or other officer as aforesaid, that he has been, without authority of law, forcibly dispossessed of any land, premises, water, fisheries, crops, or other produce of land, within the jurisdiction of such magistrate, or other officer as aforesaid, whether the same were possessed by such party as proprietor, dependent talookdar, farmer, under-farmer, ryot, or otherwise, the magistrate, or other officer as aforesaid, shall require the party or parties complained against, and any other parties concerned, to appear and make defence in person, or by agent, within a reasonable time; and if, after the examination of the necessary witnesses and documents, the complaint appears to him to be substantiated, he shall record a proceeding, ordering the party complaining to be put again into possession of the subject of dispute, and maintained in possession until the right to possession be determined by a competent court; provided that no such order shall be passed unless the party complaining of having been so dispossessed prefer his claim within one month from the time of such dispossession; or if the party complaining of having been dispossessed is a native officer or soldier, unless such party prefer his claim within such period as may be considered by the magistrate reasonable, with reference to the distance of the party and the difficulty of communication.—Act IV., 1840, sec. iv.; Act XV., 1845, sec. vii.

61. If, in cases instituted under this Act, the subject of dispute be newly-formed land, whereof it shall appear to the magistrate, or other officer as aforesaid, that no party has ever had possession, the magistrate, or other officer as aforesaid, shall award possession to the party to whom the right of possession belongs according to law or custom, and shall maintain that party in possession until the right to possession be determined by a competent court.—Act IV., 1840, sec. v.

62. If a dispute arises concerning the right of use of any land or water, the magistrate, or other officer as aforesaid, within whose jurisdiction the subject of dispute lies, may inquire into the matter, and if it shall appear to him that the subject of dispute was open to the use of the public, or of any person, or of any class of persons, the said magistrate, or other officer, may order that possession thereof shall not be taken or retained by any party to the exclusion of the public, or of such person, or of such class of persons, as the case may be, until the party claiming such possession shall obtain the decision of a competent court adjudging him to be entitled to such exclusive possession: provided that the magistrate, or other officer as aforesaid, shall not pass any such order as aforesaid, if the matter be such that the right of use is capable of being exercised at all times of the year, unless that right shall have been ordinarily exercised within three months from the date of the institution of the inquiry, or in cases where the right of use exists at particular seasons, unless such right has been exercised without discontinuance before the dispossession of which complaint is made.—Act IV., 1840, sec. vi.

63. Any person opposing by force the execution of an order for possession or use, given under this Act, or refusing obedience thereto, or knowingly contravening the same, as long as it shall remain in legal force, shall, together with all persons aiding and abetting, be liable, on conviction before a magistrate, or other officer with the powers of a magistrate, to be sentenced to simple imprisonment for a term not exceeding six months, or to fine not exceeding two hundred rupees, commutable if not paid to a period of simple imprisonment not exceeding six months, or to both imprisonment and fine as aforesaid.—Act IV., 1840, sec. vii.

64. All orders passed under this Act shall be appealable in the usual manner, under the Regulations and laws that are or may be in force relating to appeals from the order of magistrates, or other officers exercising the powers of magistrates.—Act IV., 1840, sec. viii.

65. In cases instituted under this Act, the magistrate, or other officer as aforesaid, is authorized, with the consent of all the parties, to refer the matter in dispute, so far as it is cognizable under this Act, to an arbitrator or arbitrators for decision, whose award shall be executed as if it were the award of such magistrate, or other officer as aforesaid.—Act IV., 1840, sec. ix.

66. Nothing in this Act contained shall affect the legal exercise of any right of attachment or seizure vested by law in any parties.—Act IV., 1840, sec. x.

67. This Act shall not extend to any place beyond the limits of the presidency of Fort William in Bengal, or to the settlements of Prince of Wales' Island, Singapore, or Malacca, or to any place situated within the local limits of the jurisdiction of her Majesty's Supreme Court at Calcutta.—Act IV., 1840, sec. xi.

68. In the territories subject to the presidency of Fort William in Bengal, assistant magistrates, vested with special powers, shall be competent to decide cases under the provisions of Act IV. of 1840, when such cases are referred to them by the magistrates to whom they are

subordinate, and such assistants shall deal with such cases in the same way as magistrates are competent to deal with them under the said Act.—Act XXVII., 1845, sec. i.

69. Provided always, that the magistrates may at all times recall from such assistants any depending cases which may have been referred to them under this Act, and which, for the more speedy administration of justice, or for any other reason, the magistrates may deem it proper to determine themselves in the first instance.—Act XXVII., 1845, sec. ii.

70. Magistrates are prohibited from taking cognizance, under Act IV. of 1840, of boundary disputes of the nature for which provision is made, under Act I. of 1847; but whenever they have reason to apprehend any breach of the peace in consequence of a disputed boundary, they shall certify the circumstances to the collector of land revenue, who shall be bound immediately to mark off the boundary in the mode indicated in the said Act, and to uphold the possession of the parties according to the demarcation.—Act I., 1847, sec. vi.

POWERS IN CASES OF BREACH OF DOMESTIC DUTIES, AND WORKMEN ABANDONING WORK.

71. If any person, amenable to the jurisdiction of the Zillah and City Courts, shall be convicted before a zillah or city magistrate, or joint magistrate, of the offence of enticing and taking away, or causing to be enticed and taken away, a married woman living under the protection of her husband, or of any person having the care of her in his behalf; or of enticing and taking away, or causing to be enticed and taken away, an unmarried female, under the age of maturity, viz. fifteen years, and living with her parents or other legal guardians, or any persons acting in their behalf, for the purpose of rendering such married woman, or unmarried female minor, a prostitute or concubine, or otherwise disposing of her in an unlawful manner, without the consent of the husband, parent, or other guardian of the woman or minor thus disposed of, the person so convicted shall be liable to a sentence of fine and imprisonment, to such extent as may appear adequate to the circumstances of the case, and may not exceed the powers vested in the magistrates by Section XIX., Regulation IX., 1807, viz., imprisonment for six months, and a fine not exceeding two hundred rupees, commutable, if not paid, to a further period of imprisonment, not exceeding six months. If in any instance the offender shall appear to merit a more severe punishment, he shall be committed for trial before the Sessions Court; and the provisions of Section VI., Regulation XVII., 1817, are hereby declared applicable to all such commitments.—(See "Offences against Women," under "Specific Offences.")—Reg. VII., 1819, sec. ii.

72. Any person amenable to the jurisdiction of the Zillah and City Courts, who may possess the means of supporting his wife and children, and shall, notwithstanding, desert them, and wilfully neglect to provide for their support, on proof thereof to the satisfaction of the magistrate, or joint magistrate, of the zillah or city in which the party so deserting and neglecting his family may reside, shall be required to provide for the maintenance of his family in a suitable manner, according to his situation and circumstances in life; and on his failing so to do, shall be considered guilty of a misdemeanor, and be liable to imprisonment for a period not exceeding one month. He shall also be liable to a repetition of the sentence, upon any subsequent conviction of a similar misdemeanor, after having been required to provide for the support of his family; provided, however, that nothing in this section shall render a husband liable to punishment for not maintaining his wife, if it be clearly shown that the latter has forfeited all just claim to support from her husband, by living in adultery with another person, or by other acts implying wilful abandonment of his protection.—Reg. VII., 1819, sec. iii.

73. The above paragraph shall be held applicable to illegitimate as well as to legitimate children; and may also be applied, at the discretion of the magistrate, to secure a proper maintenance for the mothers of illegitimate offspring, whilst in a state of pregnancy, or having the care of an infant child.—Reg. VII., 1819, sec. iv.

74. All persons who may voluntarily engage to serve as workmen, of any description, for a stipulated term, or who may voluntarily contract for the performance of any specific work, and who, without good and sufficient cause, shall wilfully quit the service so engaged for, before the expiration of the term agreed upon, or shall wilfully neglect to perform the work so contracted for, shall be deemed guilty of a misdemeanor, and on conviction before a magistrate or joint magistrate, shall be liable to a sentence of imprisonment not exceeding one month. The magistrate or joint magistrate may likewise require the persons so convicted to complete their stipulated term of service, or to perform the work contracted for, if it appear just and proper to require the same; and any subsequent conviction of wilful neglect to comply with such requisition shall be punishable by a further sentence of imprisonment, not exceeding two months.—Reg. VII., 1819, sec. v.

75. The provisions of the foregoing paragraph are also declared applicable to domestic servants, who may engage to serve for any fixed term, or during the performance of any specific service, or though no such engagement have been entered into, may be employed from month to

month, and without good and sufficient cause shall wilfully quit the service of their employers before the expiration of the fixed term, or before the completion of the stipulated service, or with respect to monthly servants, without giving previous notice for a period not less than fifteen days. —Reg. VII., 1819, sec. vi., cl. 1.

76. In like manner no master, or other person, employing a servant for a fixed term, or for a specific service, or from month to month, shall be at liberty, without good and sufficient cause, to discharge such servant, against his will, before the expiration of the fixed term, or the completion of the specified service, or with respect to servants employed from month to month, without giving previous warning of the intended discharge for a period of at least fifteen days, or paying his wages for that period.—Reg. VII., 1819, sec. vi., cl. 2.

77. It shall be the duty of the magistrates and joint magistrates, on applications made to them upon the stamped paper prescribed (viz., bearing a stamp of eight annas), to enforce the provisions of the above paragraph, by causing payment to any servant who may be discharged in opposition thereto, of a sum equal to half a month's wages, in addition to any arrear of wages which may be due to him at the time of his discharge; or if the servant have been engaged for a fixed term, or for a specific service, by causing payment to be made to him of such sum as may appear fully adequate to any loss sustained by him from being discharged before the time agreed upon.—Reg. VII., 1819, sec. vi., cl. 3.

78. Provided, however, that no servant shall be entitled to recover more than his arrear of wages, when he may be discharged for any misconduct proved to the satisfaction of the magistrate or joint magistrate, and appearing sufficient to warrant his discharge. Nor shall any workman or servant be liable to punishment under the provisions of this Regulation, when it may be proved, to the satisfaction of the magistrate and joint magistrate, that his quitting the service of his employer, without previous notice, or before the expiration of a stipulated term, or without having completed the performance of any work contracted for, was occasioned by gross mal-treatment, or by non-payment of wages due, or by any other cause which may appear to the magistrate or joint magistrate sufficient to justify or excuse the act complained of.—Reg. VII., 1819, sec. vi., cl. 4.

79. The whole of the sentences which may be passed by a magistrate or joint magistrate, under any part of this Regulation, will of course be open to the regular control of the Sessions Court, according to the general rules in force upon this subject.—Reg. VII., 1819, sec. vii.

### POWERS IN RESPECT OF THE SUPPRESSION OF LOTTERIES.

80. In the territories subject to the Government of the East-India Company, all lotteries not authorized by Government shall be deemed, and are declared, common and public nuisances and against law.—Act V., 1844, sec. i.

81. No person shall, in the said territories, publicly or privately, keep any office or place for the purpose of drawing any lottery not authorized by Government, or shall have any such lottery drawn, or shall knowingly suffer any such lottery to be drawn in his or her house; and any person so offending shall, for every such offence, upon conviction before a justice of the peace, or magistrate, be punished by fine not exceeding five thousand rupees.—Act V., 1844, sec. ii.

82. No person shall, under any pretence, device, or description whatsoever, agree to pay any sum, or deliver any goods, or to do or forbear doing anything for the benefit of any person, whether with or without consideration, on any event or contingency relative or applicable to the drawing of any ticket, lot, number, or figure in any such lottery, or shall publish any proposal for any of the purposes aforesaid. and any person offending in any of the matters mentioned in this paragraph, shall, for every such offence, upon conviction before a justice of the peace, or magistrate, be punished by fine not exceeding one thousand rupees.—Act V., 1844, sec. iii.

83. Every fine which shall be incurred under the provisions of this Act shall be applied one half to the use of Government and the other half to the use of the informer or informers.—Act V., 1844, sec. iv.

### OFFER OF CONDITIONAL PARDON.

84. In cases of murder, gang robbery, highway robbery, murder by Thugs, coining and forgery, as well as in cases of burglary and theft, attended with circumstances of aggravation, the zillah and city magistrates and joint magistrates are empowered, without reference to any other authority, and under the general responsibility to the Superior Courts and Government for the sound exercise of the discretion vested in them, to tender a pardon to one or more persons (not being principals), supposed to have been directly or indirectly concerned in or privy to the offence, on condition of their making a full, true, and fair disclosure of the whole of the circumstances within their knowledge relative to the crime committed, and the persons concerned in the perpetration thereof, or of their pointing out (in cases of robbery, burglary, and theft,) the mode in which the stolen property may have been disposed of.—Reg. X., 1824, sec. iii., cl. 1; Reg. I., 1829, sec. vii.

85. Persons to whom pardons may be tendered under the provisions contained in the preceding paragraph shall be examined without oath.—Reg. X., 1824, sec. iii., cl. 2.

86. In any case in which a magistrate or joint magistrate may exercise the powers vested in him by the provisions of this section, it shall be incumbent on such magistrate or joint magistrate to record on his proceedings the considerations which may have induced him to deem such course of procedure advisable.—Reg. X., 1824, sec. iii., cl. 3.

87. In such cases the individual in question shall, in the first instance, be examined by the magistrate or joint magistrate, without putting him on his oath.—Reg. X., 1824, sec. iii. cl. 5.

88. The magistrates and joint magistrates will be cautious not to tender pardons to principal offenders, and in no case to make the offer to accomplices or accessaries without a reasonable prospect of recovering the property plundered through the means of the person or persons to whom a conditional tender of pardon may be made, or of thereby securing the apprehension and conviction of the principal offenders by whom the crime may have been perpetrated, or of the receivers of the stolen property.—Reg. X., 1824, sec. iv., cl. 1.

89. It shall be competent to a sessions judge, at the time of holding the sessions, or to the Nizamut Adawlut, if the final sentence shall be passed by the latter Court, to direct the commitment of any person to whom a pardon may have been offered under the provisions of this Regulation, should it appear on evidence that such person has not conformed to the condition under which the pardon was tendered, either by wilfully concealing any thing essential, or by giving false evidence or information with a view to the conviction of an innocent person or persons.—Reg. X., 1824, sec. v., cl. 1.

90. In like manner it shall be competent to a sessions judge, or to the Court of Nizamut Adawlut, at the time of trial, to instruct the magistrate or joint magistrate to tender a pardon to any accomplice, or accessary, with the view of obtaining his evidence on oath as a witness on the trial.—Reg. X., 1824, sec. v., cl. 2.

91. It shall be competent to the Court of Nizamut Adawlut to revise the proceedings of the magistrates and joint magistrates, in any case in which a pardon may have been tendered to an accomplice or accessary, and to annul the orders passed on such proceedings, should it appear to the Superior Court that a pardon has been granted on insufficient grounds.—Reg. X., 1824, sec. v., cl. 3.

92. The powers granted by this Regulation to magistrates and joint magistrates are not to extend to the assistants to the magistrates.—Reg. X., 1824, sec. vi.

NOTE.—The whole of the foregoing rules are amended so as to conform to the modifications declared in sec. vii., Reg. I., 1829.

### CALENDARS TO BE SUBMITTED TO THE SESSIONS COURT, AND PROCEDURE THEREON.

93. The magistrates are required to lay before the Sessions Court, together with their proceedings on each trial referred by them to the said Court, a calendar with the following vouchers, or as many of them as, from the nature and circumstances of the case, may be requisite and procurable, with such other papers and documents as the magistrate may have in his possession, or judge necessary to be obtained for the information of the Sessions Court.

An attested copy of the complaint or charge.

An attested copy of the plaintiff's *oath* or affirmation to the truth of the charge, in which is to be inserted, in cases of robbery and theft, the inventory of the money or property stolen or plundered, with the amount, or computed value of it.

The prosecutor's recognizance to appear and prosecute the charge.

A copy of the process issued on the charge being preferred: or in case the charge should have been preferred in the first instance to any of the darogahs of the police jurisdictions or wards, a copy of such darogah's proceedings.

The name or names of the person or persons apprehended.

The examination of the person or persons apprehended.

The further examination of the prosecutor on *oath* or affirmation, in cases where any such examination may have been taken.

A list of the witnesses summoned by the desire of the prosecutor, particularizing the names of such as may be in attendance and those who are absent, with the cause of the non-attendance of the latter.

The recognizances of the prosecutor's witnesses.

The depositions of the witnesses who may have been in attendance, and the names of the witnesses summoned at the requisition of the prisoner, specifying those who are in attendance, and such as are absent, and the cause of the non-attendance of the latter.—Reg. IX., 1793, secs. xiii. and xiv.

MAGISTRATES.—CALENDARS TO BE SUBMITTED TO THE SESSIONS COURT.

94. In order to furnish the Sessions Court with the fullest and most accurate information on the non-attendance of any absent witness, it is further directed that the above lists be accompanied with the original returns made to the magistrate by the persons deputed to serve the summons on any witness who may not be in attendance; and that the persons so deputed on his part be kept in attendance on the Sessions Court, to answer any interrogatories which that Court may judge it necessary to put to them. By this means, the Sessions Court will be enabled to ascertain the real causes of the non-attendance of witnesses by their own inquiry; and it is expected they will, in every instance, make such inquiry as far as may be necessary to satisfy themselves and the Court of Nizamut Adawlut, in cases referable to that court, that all due measures have been taken to cause the attendance of the whole of the witnesses, both on the part of the prosecutor and the prisoner.—Reg. IX., 1796, sec. iv.

95. The magistrates shall also lay before the Sessions Court two separate calendars, the first containing a list of all persons whom they may have apprehended and discharged for want of sufficient evidence to warrant the committing them to prison or holding them to bail, to take their trial for the crime or misdemeanor charged against them, and accompanied with their reasons for having released them. The second, comprising a list of the persons whom they have apprehended for crimes or misdemeanors cognizable by them, the crime or misdemeanor with which the prisoners may have been charged, and the sentence passed upon them. These calendars are to be accompanied with all the original papers and proceedings in each case. The above calendars shall include all persons discharged or punished under sentences passed by their assistants, as well as under judgments given by themselves; and whenever any case so brought before a Sessions Court may appear not to have been sufficiently investigated, and a further inquiry may be practicable and requisite for the ends of justice, the judge shall direct such additional inquiry to be made by the magistrate and reported to the Court.—Reg. IX., 1793, sec. xvii.; Reg. IX., 1807, sec. xxii.

96. The magistrates shall also submit to the Sessions Court separate lists of all persons who may have been sentenced by them, under the provisions of Regulation XII. of 1818, to a longer imprisonment than six months, showing the names of the prisoners, the crimes with which they have been charged, and the sentences passed upon them. They shall likewise submit monthly statements of such sentences to the Sessions Court, in such form and manner as the Nizamut Adawlut, may direct.—Reg. XII., 1818, sec. vi., cl. 1; Reg. IV., 1820, sec. iii., cl. 1.

97. The magistrates shall also submit to the Sessions Court a calendar of persons in confinement on criminal charges still under examination, containing the following particulars, viz., the name of each prisoner; the date of his apprehension; the charge against him; by whom preferred, and what proceedings have been held in the case; with an explanation of the cause of delay in passing a final order, if the prisoner have been more than a month in confinement. The sessions judge, on inspection of this calendar, will call for the magistrate's proceedings in any case that may appear to require it; and if, on perusal of them, he shall be of opinion that there is not sufficient reason for postponing the trial, he is empowered to instruct the magistrate to close his proceedings, and either to pass a final order, if the case be determinable by the magistrate, or to bring it before the Sessions Court in a supplementary calendar, if there appear to be sufficient grounds for committing the prisoner to stand his trial before that court.—Reg. VI., 1818, sec. ii., cl. 1.

98. In exercising the power vested in the sessions judges by the above paragraph, for the purpose of preventing the long confinement of prisoners charged with criminal offences during the magistrate's investigation of such charges, without strong and sufficient cause for their detention, the sessions judges are required to give due attention to the reasons assigned by the magistrates for not passing a final order respecting the prisoner or prisoners in each instance, and to be careful that their instructions to the magistrates, in such cases, are consistent with the objects of public justice, as well as with a just and humane consideration of the prisoner's actual condition and the period of his confinement.—Reg. VI., 1818, sec. ii., cl. 2.

99. The zillah and city magistrates are further directed to transmit to the Court of Nizamut Adawlut, in the month of January of each year, an abstract statement of the number of robberies and other crimes of a heinous nature ascertained by the police officers, or otherwise, to have been committed within their respective jurisdictions in the preceding English year, the number of persons known or supposed to have been concerned in the commission of such crimes, and the number apprehended and convicted, or committed for trial before the Sessions Court.—Reg. IX., 1807, sec. xxvi., cl. 1.

100. To enable the magistrates to furnish the above statement, they shall require from their police officers a monthly report of heinous crimes committed within their respective jurisdictions, the number of persons known or supposed to have been concerned in the commission of them, and when any have been apprehended, the number and names of the persons apprehended.—Reg. IX., 1807, sec. xxvi., cl. 2.

101. The Court of Nizamut Adawlut will, from time to time, prescribe the forms to be used and observed, and fix the periods of transmission and mode of preparation of all calendars and other reports and statements; but until the said Court shall prescribe any alteration or discontinuance of any calendar or other report, those prescribed by the foregoing rule shall be prepared and transmitted as heretofore.—Reg. VII., 1829, sec. iii.

102. The magistrates, *upon receiving notice from the judges of the Sessions Courts of the time at which they expect to sit*, shall cause public notice to be given by a written publication, requiring all persons discharged upon bail, and all prosecutors and witnesses who may have been bound over to appear, to attend by the date fixed in such notice under the penalty of forfeiting their recognizances in the event of their not attending. The magistrates shall send a copy of this publication to the cauzy of each pergunnah, and cause a copy of it to be fixed up in some public place in the principal town or village in each pergunnah in their respective zillahs.—Reg. IX., 1793, sec. xi. (NOTE.—Modified from the original framed for the Court of Circuit.)

### DEPUTATION OF EUROPEAN OFFICERS FOR LOCAL INVESTIGATION.

103. Whenever it may appear advisable to a magistrate to depute his assistant, or any European officer acting under his authority, being a covenanted servant of the Company, to make a local investigation within the limits of his jurisdiction, for the purpose of speedily and satisfactorily determining a boundary dispute, or contested right of possession, or for the prompt and impartial adjustment of any matter or subject of inquiry in the Foujdarry Court, which, from the circumstances of the case, may appear to require the deputation of an European officer instead of a native police officer, it shall be competent to the magistrate to order such deputation, and to furnish the officer so deputed with such instructions as may appear necessary for his guidance in making the local investigation committed to him. Provided that such instructions be not in any respect inconsistent with the general Regulations in force.—Reg. XI., 1824, sec. ii.

104. Whenever the deputation of an European officer, as authorized by the preceding paragraph, may be ordered for the purpose of inquiring into any local question relative to a case depending in the Foujdarry Court, it shall be at the discretion of the magistrate, by whom the deputation may be ordered, or who may determine the case to which it relates, to declare the whole or any part of the usual deputation allowance receivable by the officer so deputed, as well as every other authorized and necessary expense attending the local inquiry, to be payable by the party against whom the case may be adjudged; or proportionally by each of the parties, if this appear just on due consideration of all the circumstances of the case. Provided that if in any instance the magistrate shall be of opinion that it would not be proper, from indigence or other cause, to render the parties, or either of them, answerable for the whole or any part of the deputation allowance receivable by the European officer deputed, he shall be authorized to discharge the same (subject to the usual audit) on the part of Government.—Reg. XI., 1824, sec. iii.

105. All deputations of an assistant, or other European officer, which may be so ordered by any magistrate, shall be immediately reported, with a statement of the circumstances of the case, to the secretary to Government in the judicial department, to whom also the return of the officer so deputed shall be reported immediately on his return to his station.—Reg. XI., 1824, sec. iv.

106. A report of the deputation of any European officer under the provisions of this Regulation shall also, in every instance, be made without delay to the Nizamut Adawlut, together with a copy of the proceeding of the magistrate directing the deputation; and if in any instance the reasons stated for the deputation shall not appear sufficient, and the Nizamut Adawlut (after calling for any further information that may be required) shall deem the deputation unnecessary or inexpedient, it shall be competent to the Nizamut Adawlut to revoke the same, and to issue such final orders in the case as they may deem just and proper.—Reg. XI., 1824, sec. v.

### ALLOWANCES TO PRISONERS AND WITNESSES.

107. The magistrates are to pay to all persons who may be released from gaol, after an imprisonment of six months or upwards, calculating from the date of their sentence, and who shall appear to be in actual need of such assistance, a sum sufficient to maintain them for one month. The sum to be paid to each individual is to be regulated by his situation in life, but it is in no case to exceed five rupees, and in every instance is to be confined as much within that amount as may be consistent with the purpose for which the allowance is granted.—Reg. IX., 1793, sec. xxv.

108. When the prisoners are European British subjects, amenable to the Supreme Court of Judicature, a similar allowance under the same restrictions is to be made to the prosecutors and witnesses, including the actual period to and from Calcutta, or sufficient time for their return after

their discharge from the court in cases wherein it may appear they may have voluntarily protracted their return beyond what is necessary.—Reg. II., 1796, sec. iii.

109. The magistrates are to pay the customary daily subsistence money to all prisoners, from the time of their apprehension to the date of their discharge.—Reg. IX., 1793, sec. xxvii.

110. No process shall be issued for the attendance of witnesses on any charge of adultery, fornication, calumny, abusive language, slight trespass, or inconsiderable assault, unless the person by whom such charge shall be preferred shall deposit in the hands of the nazir a sufficient sum for the maintenance of the witnesses who may be summoned on his application (being persons residing at a greater distance than five coss from the magistrate's cutcherry), the amount of such diet money to be regulated by the magistrate, with reference to the probable period such witnesses may have to be in attendance; and, in the event of the prolonged detention of witnesses, to direct the deposit of any further sum which to the said magistrate may seem requisite.—Reg. III., 1812, sec. ii., cl. 1; Act VII., 1846.

111. The foregoing provisions are not intended to apply to cases of maihem, actual affrays, or tumultuary assemblies of the people, requiring the immediate interposition of the police for the maintenance of the public tranquillity. In such cases, as well as in charges for heinous crimes, the subsistence of indigent prosecutors and witnesses will be defrayed by Government. If, however, a prosecutor shall in any instance, by an exaggerated and perverted representation of the case, procure process to be issued against any person for any such crime or public misdemeanor, and it shall on inquiry appear that the case was nothing more than a slight trespass, inconsiderable assault, or other trifling offence, such prosecutor shall be held accountable for whatever sum may appear to be due from him for the subsistence of his witnesses.—Reg. III., 1812, sec. ii., cl. 4.

112. It shall be the duty of the nazir to keep an accurate and particular account of all sums received and disbursed by him on account of the subsistence of witnesses under this Regulation, which shall be inspected monthly by the magistrate or his assistant.—Reg. III., 1812, sec. ii., cl. 5.

## JOINT AND ASSISTANT MAGISTRATES.

113. Whenever it may appear necessary for the despatch of public business, or for any purpose of police or otherwise, to appoint an assistant magistrate in any zillah or city, or in any part thereof, it shall be competent to the Governor-General in Council to make such appointment. —Reg. XVI., 1810, sec. iv.

114. All persons appointed by the Government to perform the duties of assistant magistrate shall, previously to entering upon the execution of such duties, take and subscribe the oath prescribed by the Regulations in force for the office of magistrate (with such verbal alterations only as may be consonant to the nature of the appointment) before the Court of Nizamut Adawlut, or any court or officer whom the Governor-General in Council may commission to administer it.—Reg. XVI., 1810, sec. v., and Reg. III., 1829, sec. iii.

115. Persons appointed to the office of joint magistrate, or that of assistant magistrate, shall be guided by the general Regulations, as far as the same may be applicable to their respective duties; and for the due execution of such duties, are declared to be invested with the same powers as by the Regulations are vested in the zillah and city magistrates.—Reg. XVI., 1810, sec. vi.

116. The special duties to be performed by joint and assistant magistrates, under the powers vested in them by the Regulations, will be determined by the orders of Government on their respective appointments. But in all matters relating to practice and form, as well as in all points not specifically provided for by this or any other Regulation, the joint and assistant magistrates shall be guided by the instructions of the Court of Nizamut Adawlut.—Reg. XVI., 1810, sec. vii.

117. All process issued by a joint or assistant magistrate shall be under his official seal and signature, and shall be executed by the officers employed under the joint or assistant magistrate, or by those of the zillah or city magistrate, as circumstances may direct, and may appear most conducive to the public service. The several zillah and city magistrates, their police officers, and all other persons acting under them, are required to aid and support the joint and assistant magistrates in the execution of any process issued by them under their official seals and signatures; and resistance to any process so issued is declared to be punishable, in like manner as provided by the Regulations for resistance to the process of a zillah or city magistrate.—Reg. XVI., 1810, sec. viii.

118. Assistant magistrates (when not acting as magistrates in the absence of the zillah or city magistrate) shall be considered subordinate to the latter in the general discharge of their official duties, as far as may be consistent with the provisions of the Regulation. In all cases of a difference of opinion between the zillah or city magistrate, and an assistant magistrate, the latter shall conform to the directions of the former, until a reference can be made to the Sessions Court, Court

of Nizamut Adawlut, or Governor-General in Council (according to the circumstance of the case) for a determination upon the subject.—Reg. XVI., 1810, sec. ix.

119. Assistant magistrates, when not stationed at the same place with the zillah or city magistrate, are authorized, in all cases requiring despatch, to correspond directly with the Governor-General in Council, the Court of Nizamut Adawlut, the Sessions Court, or other public authorities. But all monthly and other periodical reports or accounts, which may be required from an assistant magistrate by the Regulations or by the orders of Government or Court of Nizamut Adawlut, and generally all official communications which an assistant magistrate may have to make to any superior authority, and which may not require immediate despatch, without passing through the zillah or city magistrate, shall be transmitted through the channel of the latter, provided he be not absent from his jurisdiction.—Reg. XVI., 1810, sec. x.

120. The Governor-General in Council is empowered to place any part of the police or other public establishments under the immediate control of a joint or assistant magistrate, when it may appear to him expedient to do so.—Reg. XVI., 1810, part of sec. xi.

121. It shall be competent to the Governor-General in Council to direct the sessions for any joint magistracy to be held generally at any station within the jurisdiction of the commissioner of circuit to whom the joint magistrate is subordinate, so long as the orders to that effect may remain unrescinded.—Reg. II., 1831, sec. iv.

## ASSISTANTS TO THE MAGISTRATES.

### THEIR POWERS, ORDINARY AND SPECIAL.

122. The zillah and city magistrates are authorized to employ their assistants in the execution of such part of their prescribed duties as, from the extent of their general business or other cause, they may be unable to give due attention to themselves; provided that, previous to any such assistant's entering upon the exercise of judicial authority, he shall take and subscribe before the magistrate the following oath prescribed:—

"I, A. B., assistant to the magistrate of the zillah (or city) of ———, solemnly swear, that I will, to the best of my ability, assist the said magistrate in preserving the peace of the zillah (or city) over which his authority extends; that I will act with impartiality and integrity, and will not exact or receive, nor knowingly allow any other person to exact or receive, directly or indirectly, any fee, emolument, or reward whatsoever, in the execution of any matter relating to the duties of my office, excepting such as the orders of the Governor-General in Council do or may expressly authorize; and that I will perform the duties of my office according to the best of my knowledge, abilities, and judgment, conformable to the Regulations that have been or may be passed by the Governor-General in Council: So help me God."—Reg. XIII., 1797, sec. ii.

123. The assistants to the city and zillah magistrates who may have taken and subscribed the foregoing oath are authorized to exercise the judicial powers vested in the magistrates by the Regulations, as far as may be necessary to enable them to perform the duties committed to them respectively by the magistrates with whom they are stationed, under the provision to that effect in the foregoing paragraph; but no assistant to a magistrate shall exercise judicial powers except such as are authorized by the Regulations to be delegated to them.—Reg. XIII., 1797, sec. iii.; Reg. IV., 1796, sec. vi.

124. In all instances wherein the assistants to the zillah and city magistrates may exercise any judicial powers, they are to be guided in every respect by such Regulations as have been or may be hereafter enacted for the guidance of the magistrates, as far as the same may be applicable to the duties committed to them respectively.—Reg. XIII., 1797, sec. iv.

125. Whenever a complaint or charge of a criminal nature may be referred by a zillah or city magistrate to his assistant for examination, the order of reference shall be recorded on the magistrate's proceedings, with instructions whether to submit the proceedings held upon the examination for the magistrate's decision, or whether the determination upon the charge is to be passed by the assistant, if it be such as he is authorized to determine under the Regulations.—Reg. IX., 1807, sec. xxi.

126. In execution of the duties committed to them, assistant magistrates are empowered to sentence persons convicted of offences such as abusive language, calumny, inconsiderable assaults or affrays, or of petty thefts, to the same punishments to which magistrates are empowered to sentence for those offences, under Secs. VIII. and IX., Reg. IX., 1793, except that in cases wherein it may appear proper to impose the fine authorized by Sec. VIII., in addition to fifteen days' imprisonment, both the fine and imprisonment may be adjudged with an eventual commutation of the fine, if not paid, to further imprisonment for a period of fifteen days, making the entire term of imprisonment, if the fine be not paid, a month of thirty days. In any case referred to the assistant of a

zillah or city magistrate, under the foregoing rules, wherein the offence proved against the prisoner may appear to require a more severe punishment than he is authorized to adjudge, he shall not pass any sentence, but shall submit his proceedings to the magistrate, who, after holding any further proceedings he may deem necessary, will, if satisfied of the guilt of the prisoner, either pass sentence on him under the general Regulations in force, or will commit or hold him to bail for trial before the Sessions Court, according to the nature and circumstances of the case —Reg IX, 1807, sec xx, with explanatory words from secs viii and ix, Reg IX, 1793

127 It is not competent to the assistants to the magistrates to exercise the powers vested in magistrates, to tender conditional pardon to accomplices or accessories in crimes —Reg X, 1824, sec vi

128 Whenever the accumulation of business may render it impracticable for a magistrate to discharge it with sufficient despatch, and the Court of Nizamut Adawlut may be of opinion, either in consequence of a report from the magistrate of such zillah or city, or from any other information before them, that the assistant of such magistrate is duly qualified, by his experience, industry, and abilities, to be intrusted with the special powers described in the third clause of this section, the Nizamut Adawlut shall report accordingly to Government.—Reg III, 1821, sec ii, cl 1

129 On the receipt of such report from the Nizamut Adawlut, or upon any other information before Government, it shall be competent to the Governor-General in Council to invest such assistants with the special powers described in the following clause, and information shall be communicated, in every instance in which such powers may be vested in an assistant, to the Nizamut Adawlut, to the Sessions Court, and to the zillah or city magistrate —Reg III, 1821, sec ii, cl 2

130 The assistants to the zillah and city magistrates may be specially empowered in all cases referred to them, in which an individual may be convicted of any criminal offence punishable under the Mahomedan law and the Regulations for which the penalties authorized may appear insufficient, and for which a more severe punishment than six months' imprisonment with one additional month in commutation of corporal punishment, or a fine of two hundred rupees, may not have been specially prescribed, to pass sentence of imprisonment not exceeding six months, with one additional month in commutation of corporal punishment, or in other cases, with a fine not exceeding two hundred rupees, commutable, if not paid, to a further period of imprisonment not exceeding six months, so that the entire period of imprisonment, under the sentence of an assistant, shall in no instance exceed one year —Reg III, 1821, sec ii, cl 3

131 In any case referred to the assistant of a zillah or city magistrate, under the Regulations in force, in which the offence proved against the prisoner may appear to require a more severe punishment than he is by the foregoing clause authorized to adjudge, he shall not pass any sentence, but shall submit his proceedings to the magistrate, who, after holding any further proceedings he may deem necessary, will, if satisfied of the guilt of the prisoner, either pass sentence on him, under Regulation XII, 1818, and the general Regulations in force, or will commit or hold him to bail for trial before the Sessions Court, according to the nature and circumstances of the case —Reg III, 1821, sec ii, cl 4

132 The magistrates are, moreover, at all times authorized to recall from their assistants any depending cases which may have been referred to them under the present or former Regulations, and which, for the more speedy administration of justice, or for any other reason, the magistrates may deem it proper to determine themselves in the first instance —Reg III, 1821, sec ii, cl 6

133 Upon the death, removal, or resignation of any assistant, who may have been invested with special powers under the provisions of this Regulation, the person succeeding to the office of assistant shall in no case be entitled to exercise such special powers, without the previous sanction of the Governor-General in Council, and it shall at all times be competent to the Governor-General in Council to revoke the special powers which may have been intrusted to the assistant of a zillah or city magistrate under this section, for any cause which, in the opinion of the Governor-General in Council, may render the adoption of that measure expedient.—Reg III, 1821, sec ii, cl 7

134 Assistant magistrates, vested with special powers, shall be competent to decide cases, under the provisions of Act IV of 1840, for the prevention of affrays concerning the possession of land and for providing relief in cases of forcible dispossession, when such cases are referred to them by the magistrates to whom they are subordinate, and such assistants shall deal with such cases in the same way as magistrates are competent to deal with them —Act XXVII, 1845, sec i

135 Provided always, that the magistrates may at all times recall from such assistants any such cases which may have been referred to them, and which, for the more speedy administration of justice, or for any other reason, the magistrates may deem it proper to determine themselves in the first instance —Act XXVII., 1845, sec ii.

## DEPUTY MAGISTRATES.

136. It shall be competent to the local Governments of both divisions of the Bengal presidency to appoint in any zillah or district one or more uncovenanted deputy magistrates with the powers hereinafter specified.—Act XV., 1843, sec. i.

137. Every person appointed to the office of deputy magistrate shall, previously to entering upon the execution of the duties of his office, make and subscribe, before the magistrate of the district to which he may be appointed, a declaration in substitution for the oath of office.—Act XV., 1843, sec. ii.

138. A deputy magistrate shall be capable of being employed as a judicial officer or as an officer of police, or both, at the discretion of the local Government. As a judicial officer he shall exercise the powers of a covenanted assistant, or the full powers of a magistrate, according to such orders as may, from time to time, be issued in that respect by the local Government, and in such cases he shall be subject to such authority in regard to appeals from his decisions and judicial orders, as is provided for the decisions and orders of a covenanted assistant, or of a magistrate respectively. As an officer of police he shall be in all respects subordinate to the magistrate under whom he may be placed; he shall exercise such powers as the Government, or the magistrate with the sanction of Government, may commit to him, and shall obey all orders that may be issued, and perform all duties that may be assigned to him by that functionary, who shall be at all times competent, subject to such orders as he may receive from the local Government, to extend, limit, or resume the powers committed to such deputy.—Act XV., 1843, sec. iii.

139. Any uncovenanted officer in the revenue and judicial department may hold at the same time with any other office, the office of deputy magistrate.—Act XV., 1843, sec. iv.

140. A deputy magistrate appointed under this Act shall not be dismissed from office for misconduct, without the sanction of the local Government. Whenever there may be reason to believe that a deputy magistrate is disqualified by neglect, incapacity, or corruption, for continuance in office, a report shall be submitted by the local magistrate for the consideration and orders of the local Government, which shall be competent to suspend him and order a further inquiry into his conduct, or to direct his immediate dismissal, as may appear just and proper.—Act XV., 1843, sec. v.

## ASSISTANTS TO MAGISTRATES AND DEPUTY MAGISTRATES.

141. It shall be competent to the local Government of each of the divisions of the Bengal presidency, to empower assistants to magistrates and also deputy magistrates appointed as aforesaid, to receive and try without reference by the magistrate, all or any of such charges as they are now competent to try upon reference by the magistrate, subject to appeal from their decisions according to the provisions of Section II., Act XXXI. of 1841.—Act X., 1854, sec. i.

142. Deputy magistrates vested with special powers shall, in each of the said divisions of the Bengal presidency, have the same powers to decide cases under Act IV. of 1840, as by Act XXVII. of 1845 are vested in assistant magistrates with special powers.—Act X., 1854, sec. ii.

143. Magistrates or joint magistrates may at any time call from any of the assistants, or from any deputy magistrate subordinate to them, any case pending before such assistant or any such deputy magistrate under the provisions of this Act, which for any reason the magistrate or joint magistrate may deem it proper to determine himself in the first instance.—Act X., 1854, sec. iii.

## LAW OFFICERS, PRINCIPAL SUDDER AMEENS, AND SUDDER AMEENS.

### THEIR POWERS IN CRIMINAL CASES.

144. Magistrates and joint magistrates are authorized to refer for trial to the Hindoo and Mahomedan law officers of the Zillah and City Courts, or to the Sudder Ameens or Principal Sudder Ameens, all complaints or charges brought before them for petty offences, such as abusive language, calumny, inconsiderable assaults or affrays, and all charges of petty thefts, when unattended with any aggravating circumstances, and generally, any criminal cases which they are authorized by the Regulations and Acts to refer to their assistants; and in the mode of making the reference, and in the subsequent stages of the proceeding, the magistrates and the law officers, Sudder Ameens, Principal Sudder Ameens, shall be guided by the provisions hitherto in force relative to such cases.—Reg. III., 1821, sec. iii., cls. 1 and 2, and sec. iv; Reg. II., 1832, sec. iii.

145. The law officers, Sudder and Principal Sudder Ameens, in the decision of criminal cases so referred to them, are authorized to exercise the same powers as those vested in the assistants

to the magistrates, that is, in cases referred to them for trial, they shall not sentence a person convicted of abusive language or calumny, or inconsiderable assault or affray, to a more severe sentence than fifteen days' imprisonment and a fine of fifty rupees, with an eventual commutation, if the fine be not paid, to further confinement for fifteen days more, making the entire term of imprisonment, if the fine be not paid, one month of thirty days, nor shall they sentence a person convicted of petty theft to a more severe corporal punishment than thirty rattans and imprisonment for a period of one month Persons sentenced to imprisonment by the law officers shall not, during their imprisonment, be confined in irons or in fetters, except in cases in which the misconduct of such individual, during his imprisonment, shall appear to the magistrate to render such measure necessary for his safe custody —Reg. III., 1821, sec iii., cl 3; Reg II., 1832, sec. iii.

146 The law officers of the Zillah and City Courts, and the Principal Sudder Ameens and Sudder Ameens, shall forward to the magistrates, on the fifth day of each month, a statement showing the manner in which the cases referred to them may have been disposed of, in order that the same, after having been carefully inspected by the magistrates, with the view of noticing and eventually correcting any irregularities, may be incorporated in the periodical reports required to be submitted to the superior courts —Reg III, 1821, sec. iii., cl 4

147 It shall be competent to the magistrate to refer to a Sudder Ameen or Principal Sudder Ameen, not being a Muhomedan law officer, any criminal case for investigation, though such case may not be finally cognizable by such Sudder Ameen; provided, however, that no commitment be made by those officers, and that their powers of awarding punishment in criminal matters, under the existing Regulations and Acts, be not exceeded.—Reg. V., 1831, sec. xviii., cl. 6.

## MAGISTRATES AS JUSTICES OF THE PEACE.

### THEIR APPOINTMENT, QUALIFICATION, AND JURISDICTION.

*Note* —The powers of magistrates as justices of the peace in aiding to carry out the provisions of the several Regulations and Acts hereunder mentioned, will be found in those enactments respectively, and will be exercised specially, as therein provided —

| | | | |
|---|---|---|---|
| Distilleries | 1802 | II | |
| Customs | 1836 | XIV | |
| Apprentices | 1850 | XIX | |
| Registry of Ships | 1841 | X | |
| Police of Towns | 1840 | XXIII | |
| Post Office | 1837 | XVII | xxxii. |

148 All persons appointed to the station of zillah or city magistrate are required to take the oath of qualification to act as justice of the peace within six months from the date of their appointment unless, in any particular instance, it should be necessary or convenient to defer the same to a later period; in which case the Court of Nizamut Adawlut, on application being made to them, are authorized to grant such extension as they may judge proper, so that in no instance, without the sanction of the Governor-General in Council in cases of emergency, the taking the oath, in the manner prescribed in the Act of Parliament aforesaid, shall be deferred beyond a twelvemonth from the date of appointment of any zillah or city magistrate required to take the same —Reg II, 1796, sec. iv.

149. All persons who are or shall be nominated and appointed in any commission of the peace shall be capable of acting as justices of the peace in every respect, according to the tenour of such commission, upon taking and subscribing in any Civil or Criminal Court of Justice, within the places in and for which any such commission shall have issued, before the officer presiding in such court, whether such officer be a justice of the peace or not, the oaths appointed to be taken by justices of the peace, and the subscription of such persons to the said oaths shall be deposited and kept with the records of the Courts of Justice in which the said oaths shall have been administered.—Act XVI, 1841, sec. i.

150. Every justice of the peace who, before the passing of this Act, shall have had administered to him the oaths of qualification by any other justice of the peace, shall be deemed to have been duly qualified to act as a justice of the peace from the time of taking such oath, and shall continue so qualified notwithstanding such oath may not have been taken in a Court of Justice as required by any previous law, or by this Act.—Act XVI., 1841, sec. ii.

151 The Supreme Court of Judicature shall and may, from time to time, upon the order or warrant of the Executive Government, issue separate commissions to any persons not named in the general commission of the peace last issued, who by law are capable of being appointed to the office of justice of the peace, and who shall be nominated and appointed by such Executive Government to act as justices of the peace within and for the presidency and the places subordinate thereto, or within and for the presidency town And all such commissions shall be issued in the name of the Queen's Majesty, her heirs and successors, under the seal of the Supreme Court, and

tested in the name of the chief justice of such court, and shall be filed of record in the Court of Oyer and Terminer, as supplementary to the general commission of the peace last issued, which shall remain in full force —Act VI, 1845

152 In all Acts passed by the Governor-General of India in Council, the term "magistrates" shall extend to all "joint magistrates," "persons lawfully exercising the powers of a magistrate," and "justices of the peace"—Act II, 1839, sec iv

153 The declaration in Section IV, Act V, 1840, that the provisions of that Act substituting an affirmation for the oath previously required from Hindoos or Mahomedans should not extend to her Majesty's courts of justice, does not mean or extend to the courts of the justices of the peace Act V, 1840, sec iv, Act II., 1847.

PROCEDURE AGAINST EUROPEANS

154 All Europeans, not British subjects, are amenable to the authority of the magistrates and Sessions Courts within whose jurisdictions they may be apprehended and brought to trial, in common with the natives of the country But European British subjects, for all acts of a criminal nature, are amenable only to the Supreme Court of Judicature at Calcutta, and in the event of any charges being preferred against them which may render them liable to a criminal prosecution in that court, the following process is to be observed for their apprehension and trial.—Reg II, 1796, sec ii, cl 1

155 If the zillah or city magistrate, before whom the charge against such European British subject may be preferred, shall have taken the oaths of qualification as a justice of the peace, and thereby have become vested with the full power and authority of a justice of the peace, under the provision made for that purpose by the Act of 21 Geo III, cap 65, the magistrate, upon the charge or information being lodged before him upon oath, is to proceed to the apprehension of the party accused, and provided the evidence against him be sufficient to warrant the same, to his commitment for trial, as he is authorized and required to do by virtue of his commission as justice of the peace, and if there appear to him sufficient grounds for committing such British subject for trial, he is to issue a warrant, under his signature and official seal, directed to the sheriff of Calcutta, and commanding him to receive the prisoner into his custody for trial at the ensuing sessions He is likewise to bind over the prosecutor to repair to Calcutta before the session next ensuing, and is to take recognizances from the witnesses for their appearance at the trial —Reg II, 1796, sec. ii, cl 2

156 If the zillah or city magistrate, before whom an European British subject may be charged as aforesaid, shall not have taken the oath of qualification, and be therefore unqualified to act as justice of the peace under the Act of Parliament above recited, upon the charge or information being lodged before him upon oath, he is to make a summary inquiry into the circumstances of the charge without delay, and if there appear to be sufficient grounds for committing such British subject for trial, he is to be apprehended and immediately conveyed under safe custody to Calcutta. Two witnesses to the facts alleged against the prisoner (if so many be procurable) are also to be sent with him to Calcutta, or bound to appear and give evidence for the purpose of his commitment at the time of his arrival, and a list of such witnesses is, in all cases, to accompany the letter sent with the prisoner to the Court of Nizamut Adawlut. The magistrate is further to bind over the prosecutor to repair to Calcutta before the session next ensuing, and is to take penal recognizances from the witnesses for their appearance at the trial —Reg II, 1796, sec ii, cl 3

157 Whenever a zillah or city magistrate who shall have taken the oaths of qualification as a justice of the peace shall hold any British European subject to bail, or shall deem it necessary to commit any such person to the gaol of Calcutta, to take his trial before the Supreme Court of Judicature for any offence of a criminal nature, the magistrate shall transmit the original depositions taken on the occasion (together with translations of any papers not being in the English language) to the clerk of the Crown The magistrate shall likewise transmit copies of the said depositions (together with translations of any papers not being in the English language) to the secretary to the Government in the judicial department, for the information of the Governor-General in Council, who, in cases in which he shall consider it to be necessary, from the aggravated nature of the offence charged against the person accused, or on any other substantial ground, will order the prosecution to be conducted by the law officers of Government, and at the public expense —Reg XV, 1806, sec ii

158. Whenever an European British subject shall be charged before a zillah or city magistrate, who has not taken the oaths of qualification as a justice of the peace, with a criminal offence which according to the law of England may not be bailable, and the magistrate, after making the necessary inquiry on the subject, shall be of opinion that there are grounds for bringing the person accused to trial before the Supreme Court of Judicature, the magistrate shall send the person accused under safe custody to his Majesty's justices of the peace at the police office in Calcutta, accompanied by the witnesses against the prisoner, with a letter stating the nature of the case, and requesting that the justices at Calcutta will take the necessary measures for bringing the person

accused to trial before the Supreme Court of Judicature. The magistrate by whom the prisoner may be sent to Calcutta shall, at the same time, transmit a copy of all the proceedings held on the occasion (together with translations of any papers not being in the English language) to the secretary to the Government in the judicial department, to enable the Governor-General in Council to determine whether the prosecution should be undertaken by the law officers of Government and at the public expense, or otherwise.—Reg. XV., 1806, sec. iii.

159. Whenever any person shall charge an European British subject before a magistrate, who has not taken the oaths of qualification as a justice of the peace, with a bailable offence, it shall be the duty of the magistrate to explain to the complainant the course which he should pursue for the purpose of obtaining redress; that is, by application to the justices of the peace at Calcutta or to the grand jury. It shall likewise be the duty of the magistrate, after calling upon the person accused for his reply to the complaint, to report the case to the Governor-General in Council; at the same time stating, on a consideration of the distance at which the parties may reside from the presidency, of the poverty of the complainant or of other circumstances, whether it would, in the opinion of the magistrate, be proper that the expense of the prosecution should be defrayed by Government. The Governor-General in Council, on receipt of such report, will pass such orders on the subject as may appear to him to be advisable; and will at the same time direct, in cases which may appear to require it, that the prosecution shall be conducted by the law officers of the Company.—Reg. XV., 1806, sec. v.

160. An appeal shall lie from all sentences passed by any justice of the peace acting without the local limits of any of her Majesty's Supreme Courts upon convictions had before him for any offence, and from all sentences passed by any magistrate upon convictions had before him exercising such jurisdiction as aforesaid to the same authority and subject to the same rules as are provided by the Regulations and Acts of the Government in the case of sentences passed by magistrates in the exercise of their ordinary jurisdiction. And cases so made the subject of appeal shall not be afterwards liable to revision by means of a writ of certiorari.—Act IV., 1843, sec. i.

161. Nothing in this Act contained shall be held to take away the power of quashing any conviction by means of a writ of certiorari, in any other case than where there has been such appeal as aforesaid.—Act IV., 1843, sec. ii.

162. The provisions of the Act of the fifty-third George the Third and of Act IV., 1843, so far as the said provisions extend to cases of assault, forcible entries, or other injuries accompanied with force, not being felonies, against the person or property of any native of India, are extended to the case of any assault, forcible entry, or other injury accompanied with force, not being felony, which may at any time hereafter be committed in any part of the territories under the Government of the East-India Company, not being within the town of Calcutta, by any British subject or other person, against the person or property of any person whatever.—Act VII., 1853, sec. i.

163. The powers in such cases given to the magistrate of the zillah or district may be lawfully exercised by any joint magistrate or other person lawfully exercising the powers of a magistrate, in the case of any such offence as aforesaid, which may hereafter be committed within the district over which his authority extends.—Act VII., 1853, sec. ii.

164. All powers whatever in criminal cases, which by virtue of any law now in force may be exercised by two justices of the peace within and for the provinces, districts, and countries of Bengal, Behar, and Orissa, and within and for the presidency of Fort William in Bengal, and places thereto subordinate, may be exercised by one such justice.—Act XXXII., 1838, sec. i.

### PROCEDURE AGAINST EUROPEAN OFFICERS AND SOLDIERS.

165. If any European British subject, who shall be apprehended by or brought before a magistrate on a charge of murder, rape, robbery, theft, or other criminal offence, shall be found, on his apprehension, to have been, at the time when the offence laid to his charge may have been committed, a commissioned or non-commissioned officer or soldier, serving with any body of troops in the service of his Majesty, or of the honourable East-India Company, at any place not within the territories subject to the presidency of Fort William, or at any place within such territories which may be situated above one hundred and twenty miles from the aforesaid presidency, or to have been, when the offence was committed, a person attached to such body of troops in any of the capacities specified in Sections xl. and xli. of Statute 3 & 4 William IV., cap. 37, it shall be the duty of the magistrate by whom such person so accused may be apprehended, instead of proceeding to hear evidence to the charge as directed in such cases in the Regulations above mentioned, to deliver over such person so charged, together with a statement of the charge brought against him, to the commanding officer of the regiment, corps, or detachment to which such accused person shall belong, or to the commanding officer of the nearest military station, for the purpose

of his being brought to trial before a court-martial under the provisions of the said Act of Parliament.—Reg. XX., 1825, sec. ii., cl. 1.

166. It shall further be the duty of every magistrate, on a written application being made to him for that purpose by the commanding officer of any regiment, corps, or detachment stationed or employed as specified in the preceding clause, to use his utmost endeavour for the apprehension of any British officer, non-commissioned officer, soldier, or other person of the description therein alluded to, who may have been charged with the crime of murder, rape, robbery, theft, or other criminal offence, and also to give his assistance, and that of the officers under his control, in securing the person so accused.—Reg. XX., 1825, sec. ii., cl. 2.

167. It shall be competent to the judge-advocate-general or deputy judge-advocate, or other person appointed to conduct the proceedings of any court-martial assembled for the trial of offences under the provisions of the said Act of Parliament, to transmit to the magistrate of the zillah or city, within whose jurisdiction persons whose attendance before such court-martial is required may reside, any warrant, summons, or other process, for the attendance of such person; and it shall be the duty of such magistrate, who may be so applied to, to give his assistance and that of the officers under him in the due execution of such process, and generally to aid and assist in the execution of all processes issued by such courts-martial.—Reg. XX., 1825, sec. ii., cl. 3.

168. The several zillah and city magistrates are hereby prohibited from receiving and inquiring into any criminal charge of the nature described in Sec. ii. of Statute 3 & 4 Victoria, cap. 37, which may be preferred to them against any British commissioned or non-commissioned officer, soldier, or other person attached to the army, who may have been regularly brought to trial under the provisions of the said Act, and acquitted or convicted by the sentence of a court-martial of such offence; provided, however, that in any case wherein it may be ascertained by the magistrate, on due inquiry, that any person accused of such criminal offence, who may be subject to trial by court-martial, has not been brought to trial for such offence before a court-martial, and that no effectual proceedings have been taken, or have been ordered to be taken, against him, then and in that case it shall be the duty of the magistrate to report the circumstance for the information and orders of the Governor-General in Council, who, if it appear to him proper so to do, will direct the case to be proceeded upon in the ordinary course of law; and the magistrate, if so authorized, shall be competent to proceed against the offender under the provisions of the Regulations hitherto in force.—Reg. XX., 1825, sec. ii., cl. 4.

169. Provided always, that nothing contained in the foregoing clauses shall be held to restrict the magistrates of districts, either in their ordinary capacity of magistrates, or as his Majesty's justices of the peace duly qualified, from proceeding under the rules heretofore in force against all British subjects charged with criminal offences, who may not be attached to the army, or subject to be tried for such offences by a court-martial.—Reg. XX., 1825, sec. ii., cl. 5.

170. The provisions of this Regulation, as far as the same relate to criminal offences committed by any commissioned or non-commissioned officer, soldier, or other person attached to the army, being British subjects, shall not be held to apply or be in force when such offences shall be committed by persons of the above description, attached to any body of troops which may be stationed in the garrison of Fort William, or at Barrackpore, Midnapore, Dum-Dum, or at any other place within the territories under the presidency of Fort William, which may not be situated at a greater distance than one hundred and twenty miles from the said presidency; and in all such places, the powers and authorities vested by law in the magistrates and justices of the peace shall continue to be and remain in full force and effect.—Reg. XX., 1825, sec. ii., cl. 6.

171. Whenever a witness in attendance before a general court-martial, or other military court duly authorized to administer an oath, shall refuse to be sworn, and the court shall be of opinion that the testimony of such witness is essential, and that there is no sufficient reason to exempt him from taking the oath, the judge-advocate-general, or other officer conducting the proceedings of the court, shall be authorized to forward such witness, with a written statement, to the zillah or city magistrate, or joint magistrate, within whose jurisdiction the court may be held; and the magistrate or joint magistrate is directed to make such inquiries into the case as may satisfy him that the witness ought or ought not to be exempted from taking an oath, under the provisions of Regulation L., 1803 If the magistrate or joint magistrate shall be of opinion that no sufficient grounds exist for exempting the witness from taking the prescribed oath, he shall proceed in the same manner as if the refusal to give evidence on oath had taken place in his own court: on the other hand, if he shall be of opinion that the witness ought not to be compelled to take the oath, he shall certify the same to the judge-advocate-general, or other officer above referred to, and shall not impose any penalty on such witness.—Reg. XX., 1825, sec. iv.

PENAL RECOGNIZANCES, AND SECURITY TO KEEP THE PEACE.

172. It shall be lawful for the zillah and city magistrates and joint magistrates to take mochulkas or penal recognizances in the form annexed to this Act, as well from British subjects as from other persons, in all cases wherein it may appear just and necessary to require the same for the maintenance of the peace in their respective jurisdictions, although the party to be bound in such recognizances may not have been convicted of any specific offence, provided that the amount of the recognizance in all such cases shall be proportionate to the condition in life of the said party and to the circumstances of the case.—Act V., 1848, sec. ii.

173. In cases of an aggravated nature, wherein it may appear necessary to require security for keeping the peace in addition to the recognizance of the party, it shall be lawful for such magistrates to direct the same, and to fix a reasonable amount for the security bond to be executed in the form annexed to this Act by the surety or sureties.—Act V., 1848, sec. iii.

174. Whenever it shall appear to the magistrate that the period for which the party should be bound to keep the peace, with or without additional security, need not exceed one year, it shall be lawful for him, without reference to superior authority, to give directions accordingly, and in default of such recognizance or additional security, to commit the party to prison in the civil jail until he shall do what has been required of him.—Act V., 1848, sec. iv.

175. Whenever it shall appear to the magistrate that the period for which the party should be bound to keep the peace, with or without additional security, ought to exceed the period of one year, the magistrate shall record his opinion to that effect, with an order specifying the amount of recognizance and security, as well as the number of sureties which should in his judgment be required, and the period for which the recognizance and security should be required, which, however, shall in no case exceed three years. If the party shall not furnish the recognizance and security so required, the proceedings shall be laid before the sessions judge, who, after examining them and calling for any further information which he may think necessary, shall pass orders on the case confirming, modifying, or annulling the orders of the magistrate, and if the orders so passed by the sessions judge confirm to any extent the requisition for recognizance or securities, the sessions judge shall direct the magistrate to commit the party to prison in the civil jail until he shall do what has been required of him.—Act V., 1848, sec. v.

176. Provided always, that no party shall be kept in prison under the foregoing provisions of this Act for a longer period than that for which the recognizance and securities have been required from him.—Act V., 1848, sec. vi.

177. The provisions contained in Sections V., VI., and VII. of Regulation VIII., 1818, shall be applicable to all persons confined on requisition of security, under Act XXIV. of 1825, and of Act V., 1848, and to all sureties who shall give a security under these Acts respectively.—Act V., 1848, sec. vii.

178. Whenever it may be proved before the magistrate that any such recognizance has been forfeited, he shall proceed to enforce the penalty of such recognizance in the mode prescribed for the satisfaction of decrees of the civil court.—Act V., 1848, sec. viii.

179. Whenever it may be proved before the magistrate that any such recognizance has been forfeited, if a security bond shall have been taken and the magistrate shall think that proceedings should be had upon such bond, he shall give notice to the surety or sureties to pay the penalty, or to show cause why it should not be paid, and if no sufficient cause shall be shown, the magistrate shall proceed to recover the penalty from such surety or sureties by the attachment and sale of any of his or their property in the mode prescribed for the attachment and sale of property in satisfaction of decrees of the civil court; and if the penalty be not paid and cannot be recovered by such attachment and sale, such surety or sureties shall be liable to confinement, by order of the magistrate in the civil jail of the station during a period not exceeding six months.—Act V., 1848, sec. ix.

180. All sentences and orders passed under this Act shall be appealable, subject to the general provisions which regulate appeals.—Act V., 1848, sec. x.

181. All mochulkas and security bonds, which by force of any Act or Regulation may be taken by criminal courts of the East-India Company, or by zillah or city magistrates or joint magistrates, for keeping the peace or for good behaviour, may be enforced in the manner prescribed by Sections VIII. and IX. of this Act.—Act V., 1848, sec. xi.

182. In every instance in which security for good behaviour may be hereafter required, whether by the magistrates, the Sessions Court, or the Nizamut Adawlut, the amount of the security, the number of sureties (to be fixed at the discretion of the magistrate or of the court requiring the security), and the period of time for which the sureties are to be responsible for the good conduct of the prisoner, shall be fixed and determined.—Reg. VIII., 1818, sec. iii.

183. The period of time during which such prisoners may be made liable to detention in custody, on failure to furnish the security required from them, shall hereafter be specifically fixed in every instance, except in those cases in which the prisoner may appear to be a notorious robber, of a character so dangerous as to render his release, without security, evidently unsafe and objectionable.—Reg. VIII., 1818, sec. iv.

184. The magistrates are empowered at all times to exercise their discretion in releasing, without reference to any other authority, prisoners confined under requisition of security for their good behaviour, whether by their own orders or by those of any other person discharging the functions of a magistrate; provided the magistrates shall, from whatever cause, be of opinion that such prisoners can be released without hazard to the community.—Reg. VIII., 1818, sec. v., cl. 1.

185. In cases in which a magistrate may, for whatever reason, be of opinion that any prisoner confined under requisition of security for good behaviour, by order of a Sessions Court, or of the Nizamut Adawlut, can be safely released without such security, the magistrate shall either bring the case before the Sessions Court, or shall make an immediate report of the case, with his sentiments, for the orders of the Court, which may have required the prisoner to furnish security previously to his release.—Reg. VIII., 1818, sec. v., cl. 2.

186. No prisoner detained under requisition of security in the zillah or city in which he has been accustomed to reside, or in which he may have been apprehended, shall be removed to the jail of a different zillah, unless the Nizamut Adawlut or the Governor-General in Council shall sanction the removal in compliance with the prisoner's own request, and with a view to enable him the more easily to furnish the security required.—Reg. VIII., 1818, sec. vi., cl. 1; Act VII., 1850, sec. ii.

187. The foregoing rule, however, shall not be construed to preclude the removal of such prisoners from one station to another, in cases in which a due regard to the health of the prisoners or to their safe custody, or other emergent circumstances, may in the judgment of the Nizamut Adawlut or the Governor-General in Council render that measure necessary or advisable.—Reg. VIII., 1818, sec. vi., cl. 2; Act VII., 1850, sec. iii.

188. Individuals who may become sureties for the good behaviour of prisoners, may at all times obtain a discharge from their future responsibility by delivering up, or causing to be delivered up, the persons for whom they may have become responsible, to the proper magistrate or police-officer, and they will not be made responsible for the amount of the security bond, in cases in which they may give timely information to the magistrate, that the individuals for whom they may have become sureties have taken to bad courses, and may use every exertion in their power, to the satisfaction of the magistrate, for the apprehension and surrender of such individuals. —Reg. VIII., 1818, sec. vii.

189. Whenever the magistrates, under the authority vested in them by the existing Regulations, may require security for the good behaviour of a prisoner, they shall (in all cases in which they may judge it safe to do so) provide in their order for the release of the prisoner at the end of a definite period, not exceeding twelve months. The period to be fixed for the responsibility of the sureties in such cases shall correspond with the time limited by the magistrate's order for the prisoner's detention in the event of his not furnishing the required security.—Reg. VIII., 1818, sec. viii., cl. 1; Reg. IV., 1825, sec. v.

190. It shall not be necessary for the judge holding the sessions to revise the proceedings of the magistrate in such cases, except on petitions presented by the prisoners, when the judge holding the sessions is directed and empowered to call for the proceedings, and, on his own authority, to annul, modify, or confirm the orders of the magistrate.—Reg. VIII., 1818, sec. viii. cl. 2.

191. In all other cases in which the magistrate may be of opinion, from the evidence to general character adduced before him, that the prisoner is by habit a robber, burglar, or thief, or a vender, or receiver of stolen property, knowing the same to have been stolen; of a character so desperate, dangerous, or irreclaimable, as to render his release, without security, at the expiration of the limited period of twelve months above specified, hazardous to the community, the magistrate shall record his opinion to that effect, with an order, specifying the amount of security which should in his judgment be required from the prisoner, as well as the number of sureties, and the period for which the sureties should be responsible for the prisoner's good behaviour.—Reg. VIII., 1818, sec. ix., cl. 1.

192. If the prisoner shall not furnish the security so required before the next sessions of the Sessions Court, the whole of the proceedings shall be laid before the judge of that Court, who, after examining them and requiring any further evidence which he may judge necessary, shall be competent, from his own authority, to pass orders on the case, either confirming, modifying, or annulling the orders of the magistrate, as he may judge proper and equitable.—Reg. VIII., 1818, sec. ix., cl. 2.

193. In all such cases, if the sessions judge shall not think it safe to direct the immediate

discharge of the prisoner, he shall fix a limited period for the provisional detention of the prisoner (in the event of his not giving the security required from him), which period shall never exceed three years, except in the cases specified in the following section.—Reg. VIII., 1818, sec. ix., cl. 3.

194. In cases in which the sessions judge shall, from the proceedings before him, consider the prisoner to be a notorious gang-robber, dukyt, or a notorious robber of any other denomination, of dangerous character, whom it would be unsafe to set at liberty, without substantial security for his future good behaviour, he shall order that, in default of giving security, he shall be confined indefinitely.—Reg. VIII., 1818, sec. x., cl. 1; Reg. III., 1819, sec. ii.

195. In these cases, however, the sessions judge shall nevertheless fix the amount of the security to be required from the prisoner, and shall provide in his order, that, if the prisoner shall not be able to furnish the security required within the period of three years from the date of such order, he shall be again brought up before the sessions judge, at the expiration of the period of three years above specified, whose duty it will be, after examining the proceedings and making any further inquiries he may judge necessary, to determine whether the prisoner shall then be released, or whether he shall be again remanded, either on the same terms as before, or on any modified terms favourable to the prisoner.—Reg. VIII., 1818, sec. x., cl. 2.

196. With a view to encourage respectable individuals to become sureties for prisoners of the description alluded to in the foregoing clauses of this section, the period for which the sureties are to be responsible for the good behaviour of the individuals shall be, in all cases, limited to three years; subject, however, to the condition that the sureties, at the expiration of that period, shall be bound to deliver up the individuals to the magistrate.—Reg. VIII., 1818, sec. x., cl. 3.

197. When individuals shall be surrendered by their sureties, under the foregoing rule, the magistrate shall ascertain whether the former surety is willing again to become responsible for the future good behaviour of the prisoner for a further period not exceeding three years; and in the event of the surety being willing to become again responsible for the conduct of the prisoner, the magistrate shall accept the security and release the prisoner on the same terms as before.—Reg. VIII., 1818, sec. x., cl. 4.

198. If the former surety shall decline to become again responsible for the prisoner, and the prisoner shall be unable to furnish any other sufficient security, the magistrate shall detain him in custody, and bring him before the sessions judge at the ensuing sessions for such further orders as he may consider it proper to pass in the case.—Reg. VIII., 1818, sec. x., cl. 5.

199. Whenever a person, charged with a serious affray, assault, or other violent breach of the peace, or with causing, aiding, or abetting the same, or with assembling armed men, or taking other unlawful measures, with the evident intention of committing the same, shall be convicted of such charge, before any Criminal Court by which the offence may be cognizable; and the court, by which a final sentence or order in the case may be passed, shall be of opinion that it is just and necessary to require a mochulka, or penal recognizance, for keeping the peace, with or without security for the same purpose, from the person so convicted, it shall be competent to the court, passing the final sentence, or order, in such cases, to direct that the person so convicted be required to execute a mochulka, or formal engagement, in a sum proportionate to the party's condition in life, and the circumstances of the case, for keeping the peace, during such period as it may appear proper to fix in each instance; not exceeding one year from the time of the prisoner's discharge, if the sentence or order be passed by a magistrate, joint magistrate, or other officer exercising the functions of a magistrate; or three years if the sentence or final order be passed by a Sessions Court, or the Court of Nizamut Adawlut.—Reg. IV., 1825, sec. ii., cl. 1.

200. In cases of an aggravated nature, wherein it may appear necessary to require security for keeping the peace in addition to the mochulka of the party, it shall also be competent to the court passing the final sentence, or order, to direct the same; and to fix the amount of the security bond (which should never be excessive, and should in all cases be such as it would be proper to enforce, in the event of a breach of the engagement), to be executed by the surety or sureties; with a provision, that if the same be not given, the party required to find the security shall be kept in custody for any time not exceeding the period specified in the preceding paragraph, according as the order may be passed by a magistrate, or Sessions Court, or by the Court of Nizamut Adawlut.—Reg. IV., sec. ii., cl. 2.

201. The provisions contained in Secs. V., VI. and VII. of Regulation VIII., 1818, shall be considered applicable to all prisoners confined on requisition of security for keeping the peace, under the present Regulation, and to the sureties for such persons.—Reg. IV., 1825, sec. iii.

202. Whenever a prisoner acquitted of the charge on which he had been tried shall appear to the sessions judge, on the evidence before him, to be a prisoner of notoriously bad or dangerous character, it shall be competent to him to direct the magistrate to detain the prisoner in custody until he shall have given sufficient security for his future good behaviour and appearance when required.—Reg. LIII., 1803, sec. ii., cl. 6; Reg. VIII., 1818, sec. ii.

203. Whenever either of the Courts of Sessions or of Nizamut Adawlut shall have directed a

magistrate to detain a prisoner in custody until he give security for his future good behaviour, if the prisoner shall have remained in confinement for a year or any longer period, under inability to give the security required, and the execution of a mochulka (penal engagement) by the prisoner for his future good conduct, without security, may, on consideration of the circumstances of the case and the prisoner's behaviour during his confinement, appear to the magistrate sufficient to provide for the object intended, he shall report the same to the Sessions Court, who thereupon shall call the prisoner before them, and examine the proceedings held upon his trial, as far as may be necessary to ascertain the grounds on which the prisoner may have been required to find security; after which, and duly considering the circumstances stated in the magistrate's report, of the nature of the crime of which the prisoner may have been convicted or suspected, his general character as far as ascertainable, and the consequent risk to be apprehended from his being released without security for his future good conduct, if he shall concur with the magistrate in opinion that the prisoner ought to be released on his mochulka without security, they are to direct the same accordingly.—Reg. LIII., 1803, sec. xi., cls. 1 to 3.

PROCEDURE RESPECTING OFFENCES COMMITTED IN FOREIGN STATES.

204. All subjects of the British Government, and also all persons in the civil or military service of the said Government, while actually in such service, and for six months afterwards, and also all persons who shall have dwelt for six months within the British territories under the government of the East-India Company, subject to the laws of the said territories, who shall be apprehended within the said territories, or delivered into the custody of a magistrate within the said territories, wherever apprehended, shall be amenable to the law for all offences committed by them within the territory of any foreign prince or state; and may be bailed or committed for trial, as hereafter provided, on the like evidence as would warrant their being held to bail or committed for the same offence if it had been committed within the British territories.—Act I., 1849, sec. ii.

205. The committing magistrate, immediately, and before the trial, shall report every such case to the Government, and shall obey the orders which he shall receive thereon.—Act I., 1849, sec. iii.

206. The Government may order the trial to be had before one of the established courts of criminal judicature, which would be competent to try the person charged for the offence if it had been committed within the British territories.—Act I., 1849, sec. iv.

207. When the offence is charged to have been committed in the territory of any foreign prince or state, administered by officers acting under the authority of the East-India Company, in which territory a Court, competent to try the person charged for the offence, is established by authority of the Governor-General of India in Council, the Government may order such person to be conveyed in custody, out of the British territories, for the purpose of delivering him up for trial before such Court.—Act I., 1849, sec. v.

208. When the person charged is committed, the form of the warrant shall specify the commitment to be until the orders of Government can be received and acted on; when he is bailed, the form of the bail-bond shall be, in the first instance, to appear before the magistrate on a certain day assigned, allowing reasonable time for receipt of the orders of Government, and on such subsequent days as the magistrate from time to time shall require; and if Government shall order the person charged to be tried within the presidency, the magistrate may cause the bail-bond to be renewed in the usual form, to appear and take his trial at the Court appointed for the purpose.—Act I., 1849, sec. vi.

209. In either case, the special order of the Government shall be deemed full authority, either for the trial and punishment of the person charged, within the British territories, or for conveying him in custody out of the British territories, as aforesaid.—Act I., 1849, sec. vii.

210. The word "Government" as used in the third and following sections of this Act, means the Governor, or Governor in Council, or other person or persons having supreme executive authority in the presidency or place to which the committing magistrate belongs.—Act I., 1849, sec. viii.

211. The authority hereinbefore given to the Government may be also exercised by any commissioner or other person acting in the civil service of the East-India Company, to whom the Governor-General in Council shall have delegated authority to receive reports and give orders in cases within this Act.—Act I., 1849, sec. ix.

212. If requisition be made by, or by the authority of, the person or persons for the time being administering the executive Government of any part of the dominions of her Majesty, to the Government of any part of the British territories in India, to deliver up to justice any person accused of having been guilty of any heinous offence in any part of her Majesty's dominions subject to the Government making the requisition, and who shall be, or shall be supposed to be, in any

part of the British territories in India subject to the Government to which the requisition shall be made, or if a similar requisition be made by any foreign prince or state, or by any duly authorized minister or officer thereof, in respect of a person accused of having been guilty of any heinous offence in any part of the territories of such foreign prince or state, it shall be lawful for the Government to which the requisition shall be made, if it shall see fit so to do, to issue an order in writing for inquiry into the truth of the charge; and such order shall be sufficient proof of the requisition having been duly made, and a sufficient justification for all acts done in pursuance thereof.—Act VII., 1854, sec. i.

213. The order shall be signed by one of the secretaries to the Government; it shall be directed to all magistrates and justices of the peace of the Presidency or place under the control of such Government; it shall signify that the requisition has been made, shall state the nature of the offence charged, the name or other designation, if the name be not known, of the person accused, and any other description of him that may be thought necessary, and it shall require the magistrates and justices to whom it shall be directed or any of them to inquire into the truth of the charge, and to proceed in pursuance of this Act.—Act VII., 1854. sec. ii.

214. Upon the production of the order to any such magistrate or justice of the peace, he shall have the same powers as if the offence charged had been committed within his jurisdiction.—Act VII., 1854, sec. iii.

215. If the evidence adduced shall, in the judgment of the magistrate or justice of the peace, be sufficient to justify the apprehension of the person accused of the offence, the magistrate or justice of the peace shall issue his warrant for the apprehension of such person. The warrant shall be issued in the same manner as a warrant for an offence committed within the jurisdiction of the magistrate or justice of the peace issuing it, and shall contain a memorandum stating that the warrant is issued under this Act, and if the warrant be issued under an order of Government, shall also state the fact and specify the Government. The memorandum may be to the following effect:—

This warrant is issued under Act No. VII. of 1854, and is issued under an order of the Government of Act VII., 1854, sec. iv.

216. The warrant of any magistrate or justice of the peace having jurisdiction in any part of the territories under the Government of the East-India Company for the arrest of any person charged with having committed any offence, whether such warrant be issued under the provisions of this Act or not, may be executed within the jurisdiction of any other magistrate or justice of the peace having jurisdiction in any part of the said territories, whether in the same Presidency or not, upon having a written authority under the hand and seal of the magistrate or justice of the peace within whose jurisdiction it may be executed, previously endorsed thereon, and which endorsement may be to the following effect:—

*To the Nazir [or other officer as the case may be] of the Zillah of*

"This warrant may be executed in the zillah or district of [describing the zillah or district of the indorsing magistrate or justice of the peace] by any of the officers to whom the same is directed or by [describing by his name of office the officer to whom a similar warrant, issued by the indorsing magistrate or justice of the peace would be directed].—Act VII., 1854, sec. v.

217. The magistrate indorsing a warrant in pursuance of the provisions of the foregoing paragraph, shall not be liable to any action or other proceeding in consequence of any illegality in the issuing of the warrant; but any magistrate illegally or improperly issuing the same shall be liable for an arrest in pursuance of the indorsement, in the same manner and to the same extent only as if the warrant had been executed within his own jurisdiction.—Act VII., 1854, sec. vi.

218. Upon the apprehension of the supposed offender, if the offence be alleged to have been committed in any part of the territories under the Government of the East-India Company, he shall be carried before the magistrate within whose jurisdiction the offence shall be alleged to have been committed, and shall be by him dealt with according to law, unless by the warrant the officer be authorized to take bail or security, and such bail or security be given for the appearance of the person accused before the magistrate or justice of the peace of the zillah or district in which the offence shall be alleged to have been committed. If the offence be charged to have been committed in any place not within the territories under the Government of the East-India Company, the person arrested shall be forthwith carried before a magistrate or justice of the peace of the zillah or district in which he shall be arrested. The magistrate or justice of the peace, before whom the supposed offender shall be carried in pursuance of the last mentioned directions, may proceed in the same manner as in cases in which he has power to commit for trial, or to hold to bail for an offence committed within his own jurisdiction. If after making as full an inquiry into all the circumstances of the case as the evidence obtainable by the magistrate or justice of the peace within the territories under the Government of the East-India Company will enable him to make, the evidence adduced shall be sufficient in his judgment to warrant a committal, he shal commit the

accused to some place of confinement within his zillah or district, which in the judgment of the magistrate or justice of the peace shall be fit for receiving the prisoner, or if there be no such place, to the gaol of the Presidency, there to remain until he shall be delivered up or discharged by orders of Government If after making such inquiry the circumstances shall not in the judgment of the magistrate or justice of the peace be sufficient to warrant either the committal or the holding to bail of the prisoner, he shall be discharged —Act VII, 1854, sec vii

219 If the offence charged be one committed out of the British territories in India, which if committed within the jurisdiction of the magistrate would be bailable, the magistrate or justice of the peace may proceed accordingly, and may discharge the prisoner upon his giving the necessary bail The recognizance or bail-bond in such case shall be for the appearance of the accused before the magistrate or justice of the peace for the time being of the zillah or district in which the recognizance shall be taken, on a certain day to be named therein, allowing reasonable time for receiving the orders of Government, and on such subsequent days as the magistrate or justice of the peace for the time being shall from time to time appoint —Act VII, 1854, sec viii

220 If any person shall in pursuance of this Act be carried before a magistrate or justice of the peace other than the one who issued the warrant, or a magistrate or justice of the peace for the time being of the same zillah or district, the depositions and documents upon which the warrant was issued, or copies thereof, to be certified under the hand and seal of the magistrate or justice of the peace of the zillah or district in which the warrant was issued, shall, upon the requisition of the magistrate or justice of the peace before whom such person shall be carried, be forwarded to such magistrate or justice of the peace, and if the warrant be issued under an order of Government, and executed in a Presidency or place not under the Government issuing the order, notice of the arrest shall be forthwith communicated to such Government, who shall forward the requisition and any documents relating thereto in their possession to the Government having jurisdiction over the place of arrest, and such last mentioned Government shall have the same powers as the Government who made the order —Act VII, 1854, sec ix

221 If the person accused of the offence mentioned in any such order of Government be proved to have been convicted and sentenced for the offence charged by a court of justice in any part of her Majesty's dominions in which the offence is alleged to have been committed, and to have escaped before such sentence was carried into execution, the magistrate or justice of the peace, upon proof of such conviction and sentence, may issue a warrant for the apprehension of the person accused, and he may be arrested and committed in manner aforesaid without further proof, unless such person shall prove that the conviction or sentence has been reversed or annulled —Act VII, 1854, sec x

222 If it appear to the magistrate or justice of the peace before whom any prisoner shall be carried under this Act for an offence alleged to have been committed in any territories not under the government of the East-India Company, that particular circumstances exist which render it advisable that the case should be investigated by the magistrate or justice of the peace of a zillah or district nearer to such territories, he shall forthwith report the case and the particular circumstances to the Government, who shall either order such magistrate or justice of the peace to proceed with the case himself, or to send the case to be investigated by the magistrate or justice of the peace of any other district to be named by the Government In the latter case the prisoner shall be sent, or if the offence be bailable, shall give bail to appear before such last-mentioned magistrate or justice of the peace, who shall have power to deal with the case as if he had issued the warrant under which the prisoner shall be arrested, and all the depositions and documents shall be forwarded to such magistrate or justice of the peace. The order of Government shall be a sufficient justification for all persons acting in pursuance thereof —Act VII, 1854, sec xi

223 The Government by whom any order under Section I of this Act shall be made, may, if they think fit so to do, direct that copies of any depositions or exhibits which shall have been laid before them and shall have been certified to their satisfaction to be true copies of depositions or exhibits made or produced before a competent judicial officer of the territories in which the offence is alleged to have been committed, may be received in evidence of the criminality of the person accused, and such direction shall be sufficient authority for receiving the same in evidence.—Act VII, 1854, sec xii

224 The magistrate or justice of the peace, after committing the accused or holding him to bail as aforesaid for any offence committed out of the territories under the Government of the East-India Company, shall forthwith report the result of his proceedings to the Government to which he is subordinate, together with any remarks which he may deem necessary or proper to make upon the whole case He shall also forward with such report a copy of all depositions and documents used before him —Act VII, 1854, sec xiii

225 Upon receipt of the report, and after examining the case, the Government may, by order in writing to be signed by the secretary to the Government, order the accused either to be discharged or to be held to bail to appear in such court or place, and at such time or times, as the

Government may think fit, or to be delivered up to some person authorized by the Government or officer making the requisition to receive and take charge of him. In cases falling within the provisions of Act I of 1849, the Government may order the person accused to be tried under that Act.—Act VII., 1854, sec xiv

226. If ordered to be delivered up, the person to whom the accused shall be ordered to be delivered shall not have the custody or charge of him so long as he shall remain in any part of the territories under the government of the East-India Company, but the accused shall be conveyed in custody through such last-mentioned territories towards the territories in which the offence shall be alleged to have been committed, in the same manner as a prisoner sent from the station of one district to that of another, and as soon as he shall have been conveyed to the frontiers of the territories under the government of the East-India Company, he shall be delivered over to some person authorized by the Government making the requisition to receive and take charge of him If no such person shall attend to receive the prisoner, the latter shall be taken before the nearest magistrate, who may order him to be discharged out of custody, and may provide him with such means of returning to the place where he was apprehended, or so near thereto as he may desire, as such magistrate may think necessary and suitable to his station in life—Act VII, 1854, sec xv.

227. Any magistrate or justice of the peace acting under the provisions of this Act shall issue all necessary warrants, orders, and directions for carrying this Act, and also any order made under it by the Government, into effect, under his signature and seal, or seal of office, if he shall have a seal of office, and all magistrates and officers acting in pursuance of this Act shall have and exercise the same powers as if the offence charged had been committed within the zillah or district subject to their jurisdiction, and in cases where the accused may have been held to bail, the magistrate may order the bail-bond to be renewed in such form as may be necessary to carry any order of Government into effect, and if such bail-bond shall not be renewed accordingly, may commit the person accused to prison for such period as may be necessary to carry such order into effect.—Act VII, 1854, sec xvi.

228. In case any person arrested under this Act shall escape out of custody, he may be retaken in any part of the territories under the government of the East India Company, in the same manner as if he had escaped from custody under process for an offence committed in that part of such territories in which he shall be found—Act VII., 1854, sec xvii

229 If a warrant be issued in any part of her Majesty's dominions not under the government of the East-India Company, for the arrest of any person for any heinous offence alleged to have been committed therein, or for the arrest of any person for any heinous offence of which he may have been convicted by a court of competent jurisdiction, in any such part of her Majesty's dominions, any magistrate or justice of the peace within the territories under the Government of the East-India Company, may upon the production of such warrant and proof of the signature of the officer signing it, and of his authority to issue the same, and without any further proof and without any order of Government, issue his warrant for the apprehension of the person accused, and after his apprehension may proceed to commit or hold him to bail in manner aforesaid, and to take such other proceedings as aforesaid as the case may require, but the person accused shall not be delivered over as aforesaid without an order of Government. The Government in such case shall have the same powers as if the proceedings had been taken in pursuance of an order of Government issued under this Act—Act VII., 1854, sec. xviii

230 In cases in which the immediate apprehension within the British territories in India of any person accused of having committed any heinous offence mentioned in Section XXI of this Act out of such territories shall, in the judgment of a magistrate or justice of the peace having jurisdiction in any part of such territories in which the person accused shall be found, be necessary for the ends of justice, the person accused may, without an order of Government, be apprehended or proceeded against in the same manner as for an offence charged to have been committed in the place where the person accused shall be found; and after his apprehension he may be committed or held to bail in manner aforesaid, and such other proceedings as aforesaid may be taken as the case may require, but the person accused shall not be delivered up without an order of Government. The Government in such case shall have the same powers as if the proceedings had been taken in pursuance of an order of Government issued under this Act—Act VII, 1854, sec xix.

231. If any person imprisoned under this Act shall not either be delivered up or discharged or brought to trial within two calendar months after his committal, it shall be lawful for the principal court of original jurisdiction in criminal cases in the district in which he shall be imprisoned, upon application by or on behalf of the prisoner, to order him to be discharged out of custody, either upon giving such bail as the court may order, or without bail, unless sufficient cause shall be shown to the court why such discharge ought not to be ordered. Provided that no such order shall be made until after notice of the application or of the intention to make the same shall have been given to Government or to the secretary or one of the secretaries thereof.—Act VII, 1854, sec. xx

232. The words "heinous offence" in this Act shall be deemed to include treason against her

Majesty committed in any part of her Majesty's dominions, murder, attempting to murder, rape, great personal violence, maiming, dacoity, thuggee, robbery, burglary, knowingly receiving property obtained by dacoity, robbery or burglary, cattle-stealing, breaking and entering a dwelling-house and stealing therein, arson, setting fire to a village, house, or town, forgery or uttering forged documents, counterfeiting current coin, knowingly uttering base or counterfeit coin, perjury, subornation of perjury, embezzlement—whether by public officers or other persons, and being an accessory to any of the above-mentioned offences.—Act VII., 1854, sec. xxi.

233. The words "heinous offence" in this Act shall also be deemed to include any offence for which by any treaty in force between her Majesty or the East-India Company, and any foreign prince or state, her Majesty or the East-India Company, shall, at the time of making any requisition as aforesaid, be bound to deliver up offenders to the foreign prince or state making the same, and any other offence which, in the judgment of the Government to whom the requisition shall be made, shall be serious or aggravated, and for which the person accused cannot be tried within the territories under the Government of the East-India Company under the provisions of Act No. I., 1849.—Act VII., 1854, sec. xxii.

234. If by any such treaty her Majesty or the East-India Company shall be bound to deliver up to any foreign prince or state any person liable to be proceeded against by the laws of such foreign prince or state, in any case not expressly provided for by this Act, or in any manner other than that provided by this Act, it shall be lawful for the Government of any part of the territories under the government of the East-India Company, in which such person may be found, upon requisition made by or on the part of such foreign prince or state, to adopt such proceedings for carrying such treaty into effect, and for the surrender of such person, and for making any preliminary inquiry into the charge contained in the requisition, as it shall think fit, and any such order of the Government in writing, under the hand of one of the secretaries of such Government, shall be a sufficient authority and justification for all acts to be done in execution thereof.—Act VII., 1854, sec. xxiii.

# CRIMINAL JUDICATURE.

## SESSIONS COURT.

### TABLE OF ENACTMENTS.

| Original Regulation or Act. | Paras. in Consolidation. | REMARKS. |
|---|---|---|
| 1793. IX. xxvi. | 20 | |
| xxviii. to xxxiii. | | Rescinded. |
| xxxiv. | | Added to sec. iii., Reg. VII., 1831. |
| xlvii. | 13, 24 | Additions from sec. v., Reg. I., 1811, and from cls. 1 & 2, sec. vi. Reg. LIII. 1803, in paragraph 24. |
| xlviii. | 15, 18 | Additions from sec. ii., Act. XXXVIII., 1850. |
| xlix. | 19 | |
| liii. | 24 | |
| liv. | 21, 24 | Additions from cl. 1, sec. vi., Reg. LIII., 1803. |
| lvi. | 24 | Additions from sec. v., Reg. XVII., 1817. |
| lvii. | 24 | |
| lviii. | 31 | Additions from sec. xiii., Reg. IV., 1797. |
| lix. | | Rescinded by cl. 1, sec. v., Reg. XII., 1825. |
| lx. lxi. | | Superseded by sec. vii., Reg. III., 1829. |
| lxii. | | Repealed by sec. i., Act. XVIII., 1844. |
| lxiii. | 34 | |
| lxv. | 12 | |
| 1795. XXXVI. | | |
| ii. | | Only a rescission. |
| iii. to v. | | Omitted, sec. v. being superseded, and the remaining sections extinct. |
| vi. | 29 | |
| 1797. IV. xii. | 35 | |
| xiii. | | Incorporated with sec. lviii., Reg. IX., 1793. |
| xiv. | 33 | |
| 1799. X. ii. | 32 | |
| 1803. LIII. vi. | 24, 25 | |
| 1811. I. v. | 24 | |
| 1814. XXV. xv. | | Amalgamated with cl. 8, sec. vii., Reg. XVII., 1816. |
| 1816. XVII. | | |
| vii. 8. | 37 | Additions from sec. xv., Reg. XXV., 1814. |
| 1817. XVII. ii. | 26 | |
| v. | | Incorporated with sec. lvi., Reg. IX., 1793. |
| 1822. VIII. | | |
| iii. & iv. | 30 | |
| 1823. IV. vi. | 7 | |
| 1825. XII. vii. | | Superseded by Reg. XII., 1829, and sec. vi., Act. XXXI., 1841. |
| 1829. I. iii. | | Inoperative. |
| v. 1. | | Unnecessary; relates to commissioners of circuit only. |
| v. 2. | 8 | |
| 1831. II. ii. | | Unnecessary. |
| iii. | 9, 10 | |
| VII. ii. | 1 | Additions from Act. VII., 1835. |
| iii. | 2 | Sec. xxxiv., Reg. IX., 1793, added. |
| iv. | 4 | |
| v. | 3 | |
| vi. vii. | 22, 36 | |
| viii. to xi. | | Superseded by the extended provisions of Act. VII., 1835, except sec. ix., which is provided for in sec. lxiii., Reg. IX., 1793. |

REGULATIONS AND ACTS RESPECTING SESSIONS COURT.

| Original Regulation or Act. | Paras. in Consolidation. | REMARKS. |
|---|---|---|
| 1831. VII. xii. | 5, 6 | |
| xiii. 1 & 3. | | Inoperative under Sessions Courts. |
| xiii. 2. | 11 | |
| 1831. IX. iv. 3. | 23 | |
| 1832. VI. iv. 1. | 27 | |
| 1835. VII. | | Incorporated with sec. ii., Reg. VII., 1831. |
| 1841. XXXI. vi. | 28 | |
| 1850. XXXVIII. | | |
| i. | 14 | |
| ii. | 15 | Additions from sec. xlviii., Reg. IX., 1793. |
| iii. | 16 | |
| iv. | 17 | |

## TABLE OF DIVISIONS.

| TITLES OF DIVISIONS. | Nos. of Paragraphs. |
|---|---|
| Constitution and Jurisdiction. | 1 to 12 |
| Procedure on Trials, and Reference to the Nizamut Adawlut. | 13 to 33 |
| Miscellaneous Duties. | 34 to 37 |

# CRIMINAL JUDICATURE.

## SESSIONS COURT.

### CONSTITUTION AND JURISDICTION.

1. It is competent to the governors of the presidencies of Fort William in Bengal, and of Agra respectively, by an order in council, to invest the judges of the zillahs or cities with full powers to conduct the duties of the sessions, and to transfer, by such order in council, any part or the whole of the duties connected with criminal justice to any session judge, and to define the powers which shall be exercised by the commissioners of circuit, and by the session judge respectively.—Reg. VII., 1831, sec. ii.; and Act VII., 1835.

2. Session judges so appointed shall take the following oath before such person as the Governor-General in Council may direct, and shall be guided in the conduct of their duties by all the rules applicable to the offices of session judges:—

"I, A.B., solemnly swear that I will truly and faithfully execute the duties of judge of the Sessions Court of ———; that I will administer justice according to the Regulations that have been or may be enacted by the Governor-General in Council, to the best of my ability, knowledge, and judgment, without fear, favour, promise, or hope of reward; and that I will not receive, directly or indirectly, any present or nuzzer, either in money or in effects of any kind, from any party in any suit or prosecution, or from any person whomsoever, on account of any suit or prosecution to be instituted, or which may be depending, or have been decided in the Sessions Court of which I am judge; nor will I knowingly permit any person or persons under my authority, or in my immediate service, to receive, directly or indirectly, any present or nuzzer, either in money or in effects of any kind, from any party in any suit or prosecution, or from any person whomsoever, on account of any suit or prosecution to be instituted, or which may be depending or have been decided in the said Court; nor will I, directly or indirectly, derive any advantage or emolument from my station, excepting such as the orders of Government do or may authorize; So help me God."—Reg. IX., 1793, sec. xxxiv.; and Reg. VII., 1831, sec. iii.

3. The session judges shall possess all the powers formerly confided to judges of circuit or to commissioners of circuit holding sessions, as the same have been from time to time modified and amended by the Regulations and Acts still in force.—Reg. VII., 1831, sec. v. (adapted).

4. The session judges shall try every commitment that may be made by the magistrates of their respective jurisdictions as soon after it is made as may be convenient, and jail deliveries for each district shall be held at least once in every month.—Reg. VII., 1831, sec. iv.

5. Whenever the judge of any zillah or city may have been invested with the powers of session judge, and any magistrates or joint magistrates, having jurisdiction limited to that district, or extending to other districts, may be stationed at any place within the jurisdiction of the judge, all cases committed for trial by such magistrates or joint magistrates shall be submitted to the judge through the magistrate at the sudder station as soon after commitment as practicable, and the judge is authorized and required to try all such cases under the same rules as if committed by the magistrate at the sudder station.—Reg. VII., 1831, sec. xii., cl. 1.

6. Provided that if, on account of distance or other cause, it be deemed expedient to limit the jurisdiction of the judge to cases originating within the limits of his own district, or to exclude from his jurisdiction all the commitments made by such magistrates or joint magistrates, and to transfer them for trial to the judge of another zillah or city, or to leave them to be decided by the commissioner of the division at the station of those magistrates or joint magistrates, it shall be competent to the Governor-General in Council to direct the same by an order in council.—Reg. VII., 1831, sec. xii., cl. 2.

7. No session judge, whether fully appointed or officiating, shall on any account preside at the trial of any case in which the prisoner or prisoners may have been committed for trial by himself, in his capacity of superintendent of police, magistrate, joint magistrate, or assistant magistrate. In all such cases, the trial shall be postponed until a report of the case shall be made to the Court of Nizamut Adawlut, who will determine what provision shall be made for the trial of the case.—Reg. IV., 1823, sec. vi.

8. It shall be at all times competent to the Governor-General in Council to direct any

commissioner or other judge, not being the magistrate by whom the commitments were made, to hold the sessions of jail delivery for any city or zillah, with the powers and authority of a Sessions Judge, whenever the arrangement may appear to be necessary for the prompt and efficient administration of justice.—Reg. I., 1829, sec. v., cl. 2.

9. Whenever a commissioner of circuit shall have received authority, either from Government or the Nizamut Adawlut, to hold the trial of any commitments made by a joint magistrate at any other than the station of such joint magistrate, he shall transmit to that officer an authenticated copy of the letter containing such authority, with the necessary instructions for his guidance; and all joint magistrates are strictly prohibited from removing any prisoners under commitment for trial, or the proceedings relating thereto, until they have been furnished with a copy of the authority aforesaid.—Reg. II., 1831, sec. iii., cl. 1.

10. The commissioners of circuit are also required in the cases above adverted to, as well as in all cases in which they may have been specially authorized to hold a trial out of the ordinary course prescribed by the Regulations, to record on the proceedings of such trial an authenticated copy of the authority under which the same may have been held.—Reg. II., 1831, sec. iii., cl. 2.

11. The several commissioners of circuit appointed under the provisions of Regulation I., 1829, are authorized and required, without making any previous reference for sanction either to Government or to the Nizamut Adawlut, to hold jail deliveries as often as may be convenient for any of the districts within their divisions, whenever, owing to absence, indisposition, or other cause, the judge of the zillah or city, who may have been nominated to the office of session judge, shall have been unable, for a period exceeding one month, to perform that duty, or whenever such judge may be prevented from trying any case or cases by reason of his having made the commitment or commitments in his capacity of magistrate or joint magistrate, or from any other cause.—Reg. VII., 1831, sec. xiii., cl. 2.

12. The session judges are to submit to the Nizamut Adawlut such rules as may appear to them calculated for the better regulation of the trials of prisoners, or the administration of justice. —Reg. IX., 1793, sec. lxv.

PROCEDURE ON TRIALS, AND REFERENCE TO THE NIZAMUT ADAWLUT.

13. The proceedings on the trial of prisoners are to be conducted in the following manner: The charge against the prisoner, his confession (which is always to be received with circumspection and tenderness) if he plead "guilty," or, if he plead "not guilty," the evidence on the part of the prosecutor, the prisoner's defence, and any evidence which he may have to adduce, being all heard before him, the cauzy and mufty (who are to be present during the whole of the trial except in cases in which the attendance and futwah of the law officers shall be dispensed with under the provisions of the Regulations in that behalf) are to write at the end of the record of the proceedings the futwah or law as applicable to the circumstances of the case, and to attest it with their seals and signatures. The Court shall attentively consider such futwah, and if it shall appear to them consonant to natural justice, and also conformable to the Mahomedan law, they are to pass sentence in the terms of the futwah (except in cases in which they are expressly directed not to pass sentence), and to issue their warrant to the magistrate for the execution of it, without further reference or delay. Provided, however, that in all cases where a prisoner may be condemned by such sentence to suffer death or imprisonment for life, the Court shall transmit a copy of the sentence, and of all the papers and proceedings read or recorded during the trial, to the Nizamut Adawlut, and shall not execute such sentence, but shall wait the final sentence of that Court.—Reg. IX., 1793, sec. xlvii.

14. Every person on trial for the commission of any offence shall be admitted to defend himself, either personally or by his authorized agent, and after the close of the case for the prosecution, to make full answer and defence thereto, either personally or by his authorized agent. —Act XXXVIII., 1850, sec. i.

15. Prosecutors shall generally attend in person to conduct their prosecutions before the Sessions Court; but the Court, subject to such rules as shall from time to time be made for their guidance by the Nizamut Adawlut, may allow any prosecution to be conducted by an authorized agent.—Reg. IX., 1793, sec. xlviii.; Act XXXVIII., 1850, sec. ii.

16. In those courts in which any person now has by law the right of employing whomsoever he can employ as counsel or pleader, nothing herein provided shall be deemed to restrict that right: in all other cases, those persons only shall be deemed authorized agents who are either advocates of one of the Supreme Courts of Justice established by royal charter, or authorized pleaders of the Civil Courts of the East-India Company, or by leave of the Court, magistrate, or other person before whom the prisoner is on trial, any other person who is employed by the prosecutor or prisoner as his agent.—Act XXXVIII., 1850, sec. iii.

17. The foregoing rules shall not be deemed to dispense with the presence of any prosecutor or accused person, when the presence of such prosecutor or accused person is now by law required. —Act XXXVIII., 1850, sec. iv.

18. If the prosecutor be a Mahomedan or Hindoo woman of a rank or situation in life which, according to the customs of the country, would render it improper to compel them to appear in a court of justice, and if the case be of such a nature as to admit of its being taken by commission, the judge shall not require the attendance of such woman, but shall depute persons to take their evidence in the manner prescribed by the Mahomedan law.—Reg. IX., 1793, sec. xlviii.

NOTE.—In respect of procuring the attendance and evidence of witnesses, and the committing to custody and fining witnesses who refuse to attend or give evidence, the Sessions Court are to be guided by the rules of sec. vi., Reg. IV., 1793, as applied to the procedure in those respects of the zillah and city magistrates, the Sessions Courts, and the Courts of Nizamut Adawlut, by sec. ii., Reg. L., 1803, and by the rules of sec. vii., Reg. IV., 1797, enacted for the guidance of the Sessions Courts and the magistrates in the examination of witnesses.—See "RULES OF PROCEDURE COMMON TO ALL THE CRIMINAL COURTS."

19. If the attendance of any witness on the part of the prosecutor or the prisoner, whose evidence the law may not allow to be taken by commission, cannot be procured, or if any witness cannot be found, the judges may postpone the trial until the next sitting of the Court, provided there shall appear to them sufficient cause for so doing. If the attendance of such witness cannot then be procured, or if he shall not have been found, the judges may, in like manner, postpone the trial a second time. But if the judges and their law officers shall be of opinion that the evidence of any witness or witnesses who may be absent is not necessary, they shall complete the trial without the evidence of such witness or witnesses.—Reg. IX., 1793, sec. xlix.

20. The magistrates are to pay to all prosecutors and witnesses who may appear to be actually in need of such assistance, a daily allowance of two annas each, during their attendance on the Sessions Court; and the same allowance for as many days as, in their opinion, may be sufficient for such prosecutors and witnesses to come from and return to their respective homes.—Reg. IX., 1793, sec. xxvi.

21. The judges of the Sessions Court are to refer to the cauzy and mufty of their respective courts all questions on points of law that may arise during the course of any trial, and respecting which no specific rules shall have been enacted by the Governor-General in Council, and shall regulate their proceedings by the opinions which may be delivered by those officers. If such opinions shall appear to the judges contrary to the principles of natural justice or of the Mahomedan law, they are, nevertheless, to be guided by them, and after completing the trial, and obtaining the futwah of the law officers upon the case, they shall, without passing sentence upon it, transmit the proceedings and futwah to the Nizamut Adawlut, with a separate letter stating their objections to such opinions or futwah, and wait the sentence of that court.—Reg. IX., 1793, sec. liv.

22. On the conclusion of the trial or trials, the session judge shall proceed to pass sentence of conviction or acquittal, or to refer the trial to the Nizamut Adawlut if required to do so under the existing rules.—Reg. VII., 1831, sec. vi.

23. Whenever a criminal trial may be referrible to the Nizamut Adawlut, by reason of the session judge differing in opinion with his law officer as to the conviction or acquittal of one or more prisoners included in the same trial, the sentence in which, in regard to the other prisoners, may be within his competence under the Regulations in force, the session judges are required to pass such sentence as they may deem just and proper, and within their competence, in regard to those prisoners whom they may convict or acquit, in concurrence with the futwah of their law officers, and in their reference to the Nizamut Adawlut regarding any other prisoners included in the same trial, they are enjoined to state specifically their opinion on the guilt or innocence of the prisoners; with the grounds of their differing from the futwah; as also to point out, in their report accompanying the trial, those parts of the proceedings and evidence which may affect the prisoners in respect to whom the case is referred, for the consideration and sentence of the Nizamut Adawlut. —Reg. IX., 1831, sec. iv., cl. 3.

24. In the several cases following, the judge of sessions, after the trial shall have been completed, shall not pass sentence, but shall transmit the proceedings to the Nizamut Adawlut, and wait the sentence of that Court:—

In all trials in which any of the prisoners convicted are liable to a sentence of death, or of imprisonment, and transportation for life.

In all cases in which the session judge shall disapprove of any part of the proceedings held on the trial, or of the futwah delivered by the law officers, as well in cases in which any opinion given by the law officer on any point of law that may have arisen, and had been referred to them during the course of any trial, and respecting which no specific rules shall have been enacted by the Governor-General in Council, shall appear to the judge to be contrary to the principles of natural justice or to the Mahomedan law, or otherwise objectionable.

In all cases in which the evidence given on a trial shall be deemed incompetent by the Mahomedan law, solely on the ground of the persons giving such evidence not professing the Mahomedan religion, and in cases in which the conviction of the prisoner depends exclusively or principally on evidence objected to by the Mahomedan law officer, on the ground of the witness being a police officer or an officer of Government of any description, or any other ground of exception in the Mahomedan rules, of evidence which may appear to the session judge unreasonable or insufficient.

In all cases in which the Sessions Court are directed not to pass sentence, the judges are to acompany the record of the trial ordered to be transmitted to the Nizamut Adawlut, with a letter containing their opinion on the merits of the case.

In trials referrible to the Nizamut Adawlut, if the prisoner or prisoners convicted, or any of the prisoners convicted on the same trial, be liable to a sentence of death, the judge shall not pass any sentence (except for the acquittal and discharge of any prisoners not convicted), but shall transmit the trial, with his opinion thereupon, for the sentence of the Nizamut Adawlut. If none of them be liable to a sentence of death, the session judge shall pass sentence on the prisoner or prisoners so convicted. But such sentences, in all trials referrible to the Nizamut Adawlut, shall not be deemed final, nor shall any warrant be issued for carrying the same into execution, until they be confirmed by the Court of Nizamut Adawlut. Moreover, whenever the trial of a principal in any crime may be referred for the sentence or confirmation of the Nizamut Adawlut, and an accomplice in the same crime shall have been brought to trial and convicted at the same time with the principal, the Sessions Court shall not carry into execution their sentence upon the accomplice so convicted, but shall wait the confirmation or final sentence of the Nizamut Adawlut, as well respecting the accomplice as the principal. Provided, however, that this restriction be not understood to prevent the judges of the Sessions Court from passing a final sentence of acquittal upon any prisoners charged as accomplices, whom they may acquit of such charge in concurrence with their law officers; or from directing the release of any prisoners so acquitted, notwithstanding the reference of the trial of the principal to the Court of Nizamut Adawlut.—Reg. IX., 1793, secs. xlvii., liii., liv., lvi., and lvii.; Reg. LIII., 1803, sec. vi., cls. 1 & 2; Reg. I., 1811, sec. v.; Reg. XVII., 1817, sec. v.

25. Whenever the session judges may refer to the Court of Nizamut Adawlut the trial of a prisoner or prisoners whom they may consider proper objects of capital punishment, of imprisonment and transportation for life, or of a mitigation of punishment, or of an extension, mitigation, or remission of punishment in any case whatever, they shall be careful to notice the same in their letters accompanying the trials referred; and shall state at large the grounds of their judgment, whether for or against the prisoner, with such of the facts and circumstances in evidence upon the trial as may be necessary to explain the case of the prisoner, whose punishment is proposed to be extended, mitigated, or remitted.—Reg. LIII., 1803, sec. vi., cl. 3.

26. In all cases in which a person charged with a criminal offence, and brought to trial before a Sessions Court, shall be acquitted of the charge by the futwah of the Mahomedan law officer present at the trial, and the judge before whom the trial may be held, on full consideration of the evidence, and of all the circumstances of the case, shall be of opinion that the proof against the prisoner, whether founded on his free and voluntary confession, or on the testimony of credible witnesses, or on circumstances of strong presumption, is sufficient to convict the prisoner of the whole, or any part of the charge, so as to render him a proper object of punishment, the judge shall not pass any sentence; but shall transmit without delay the whole of the proceedings on the commitment and trial with the futwah of the law officer, to the Court of Nizamut Adawlut; and shall state in a letter to that court the specific crime or crimes which the judge may consider to be established against the prisoner.—Reg. XVII., 1817, sec. ii.

27. In all trials in which recourse may be had to trial by punchayet, assessors, or jury, and the futwa of a Mahomedan law officer is dispensed with, if the crime of which the prisoner is convicted be one which the judge is not specifically empowered by the Regulations to punish, he shall not proceed to pass sentence, but shall refer the case for the consideration of the Nizamut Adawlut, stating at length in the proceedings the opinion of the punchayet, assessors, or jury, and his own opinion as to the crime proved, and the nature and extent of the punishment which should be awarded.—Reg. VI., 1832, sec. iv. cl. 1.

28. It shall be competent to a session judge to refer to the Nizamut Adawlut any trial in which he may consider the sentence he is empowered to pass inadequate to the guilt of the prisoner, any thing in the existing Regulations to the contrary notwithstanding.—Act XXXI., 1841, sec. vi.

29. The Sessions Court are to examine the lists of trials held on the preceding session, which may have been referred by them to the Nizamut Adawlut; and in the event of their not having received the orders or sentence of that Court on any trial so referred, they are to report the same to the Court, that in the event of the proceedings not having been received by the Court, duplicates

of such proceedings, or of the sentences or orders passed thereon, which may have miscarried, may be forwarded or issued before the commencement of the ensuing session, that the sentence or orders of the Nizamut Adawlut on such trials may be forthwith passed or executed.—Reg. XXXVI., 1795, sec. vi.

30. It shall be competent to the Governor-General in Council and to the Nizamut Adawlut to order a trial to be brought on at the station or jail delivery of any city or zillah other than that within which the crime may have been perpetrated, whenever there shall appear sufficient reason for so ordering, whether such measure may promote the ends of justice or tend to the general convenience of the parties and witnesses without hindrance thereto; and the trial held and sentence passed in consequence shall be of the same legal effect as if the whole had been conducted at the station of the district within which the crime was perpetrated.—Reg. VIII., 1822, secs. iii. and iv.

31. The Sessions Court are to transmit to the Nizamut Adawlut the proceedings on the trial of all prisoners whom they may sentence to suffer death or who may, in their opinion, be deserving of capital punishment, within ten days after the trial is completed, or as much earlier as from the state of business may be practicable; and in the transmission of trials to the Nizamut Adawlut, they shall, as far as practicable, give a preference to those in which the prisoners may have been sentenced to or be liable to suffer death.—Reg. IX., 1793, sec. lviii.; Reg. IV., 1797, sec. xiii.

32. The session judges shall, as soon as possible after the close of any trial referrible to the Nizamut Adawlut, and with no further delay than may be necessary to transcribe the proceedings held thereupon, transmit to the Court of Nizamut Adawlut a complete and exact counterpart of the original record of all proceedings held and papers received relative to such trial, with an English letter, stating their opinion on the evidence and on the guilt or innocence of the prisoners. The record to be so transmitted is to be authenticated by the signature of the judge and seal of the law officer before whom the trial may have been held, and is to include the whole of the proceedings held before the Sessions Court, with every examination, exhibit, or material paper, of whatever denomination, taken by or delivered to that Court. The whole of the proceedings and papers received from the magistrate upon the case referred, are also to be annexed to and transmitted with the proceedings of the Sessions Court; but any variations between the depositions of the witnesses before the magistrates and Sessions Courts are to be carefully noticed on the proceedings of the latter; and any confessions of the prisoners before the magistrate, any inquest taken in cases of homicide, or any other evidence appearing on the proceedings of the magistrates, are to be entered with the necessary proofs on the proceedings of the Sessions Court.—Reg. X., 1799, sec. ii.

33. The Sessions Court, in the transmission of their proceedings to the Nizamut Adawlut, are to be guided by such forms and instructions as they may receive from that Court.—Reg. IV., 1797, sec. xiv.

### MISCELLANEOUS DUTIES.

34. The Sessions Court are to report to the Nizamut Adawlut every instance in which it shall appear to them that the magistrates have been guilty of neglect or misconduct in the discharge of their duty. The Courts are also to acquaint the Nizamut Adawlut whenever the magistrates omit or refuse to obey their orders.—Reg. IX., 1793, sec. lxiii.

35. The session judges are to transmit to the Nizamut Adawlut a report containing such observations as they may have made, regarding the effect of the existing system for administering the criminal laws, in the prevention and punishment of crimes; as well as respecting the state of the jails, the treatment and employment of the prisoners, and such other matters as they may think deserving the notice of the Court.—Reg. IV., 1797, sec. xii.

36. The session judges shall not be required to furnish to the Nizamut Adawlut any other statements than those of convictions and acquittals, which were furnished by the commissioners of circuit, which statements shall be furnished monthly. All other periodical reports and statements, whether on the subject of the jails or other matters, which the latter authorities have been required to furnish under the Regulations or circular orders, shall still be furnished by them, including the half-yearly reports on the state of the police, and subjects of a general nature; and the several commissioners are required as heretofore to visit periodically the sudder stations of the several districts within their respective divisions at least twice in each year, and at intervals of not less than three months.—Reg. VII., 1831, sec. vii.

37. The Sessions Courts may order the removal of any public native officer who may be convicted of a criminal offence, if the conduct of such officer appear from any proceedings before the said Court to be such as to require his removal from the public situation held by him; and on the same being notified to the European public officer, under whom such native officer may have been employed, it shall be the duty of such European officer to take measures for the appointment of a successor to the vacant office, in conformity with the Regulations.—Reg. XXV., 1814, sec. xv.; Reg. XVII., 1816, sec. vii., cl. 8.

# CRIMINAL JUDICATURE.

## NIZAMUT ADAWLUT.

### TABLE OF ENACTMENTS.

| Original Regulation or Act. | | | | Paras. in Consolidation. | REMARKS. |
|---|---|---|---|---|---|
| 1793. | IX. | | lvi. | 6 | Additions from sec. v., Reg. XVII., 1817. |
| | | | lxviii. | 1 | |
| | | | lxxii. | 2 | |
| | | | lxxiii. | | Unnecessary. |
| | | | lxxiv. | 3 | |
| | | | lxxvii. | 4 | Additions from sec. vi., Reg. VI., 1832. |
| | | | lxviii. | 14 | |
| 1808. | VIII. | | v. | | Unnecessary; only rescinds. |
| | | | vi. | 15 | Additions from sec. xvii., Reg. XXV., 1814. |
| | | | vii. | 5 | |
| 1810. | XIV. | | ii. | | Unnecessary; only rescinds. |
| | | | iii. | 7 | |
| | | | iv. | | Superseded by Acts XXXI., 1841, and XIX., 1848. |
| | | | vi. | 8 | |
| 1814. | XXV. | | xvii. | | Incorporated with sec. vi., Reg. VIII., 1808. |
| 1817. | XVII. | | | | |
| | | | ii. & iii. | 9 | |
| | | | iv. | 10 | |
| | | | v. | | Incorporated with sec. lvi., Reg. IX., 1793. |
| | | | xvii. } xviii. } | 16 to 18 | |
| 1822. | IV. | | ii. | 12 | |
| | | | vii. | 11 | |
| 1825. | XII. | | viii. | 19 | |
| 1831. | IX. | ii. | 6. | 23 | Applied to the Nizamut Adawlut by cl. 7, sec. iv., Reg. IX., 1831. |
| | | iv. | 1. | | Unnecessary; only a recital. |
| | | iv. | 2. | | Superseded by sec. i., Act XXXI., 1841. |
| | iv. | 3 to 7. | | 13, 20 to 23 | |
| 1832. | VI. | | vi. | | Incorporated with sec. lxxvii., Reg. IX., 1793. |
| 1844. | XIV. | | ii. | 24 | |

### TABLE OF DIVISIONS.

| TITLES OF DIVISIONS. | Nos. of Paragraphs. |
|---|---|
| General powers and rules for dealing with cases referred by the session judges. | 1 to 14 |
| Powers of Single Judges. | 15 to 24 |

# CRIMINAL JUDICATURE.

## NIZAMUT ADAWLUT.

### GENERAL POWERS AND RULES FOR DEALING WITH CASES REFERRED BY THE SESSION JUDGES.

NOTE.—The constitution of the Nizamut Adawlut is framed in conjunction with the Sudder Dewanny Adawlut, and will be found under the head "SUDDER COURT." Their powers and duties in the punishment of offenders will be found under the head "SPECIFIC OFFENCES."

1. The court shall meet once in every week, or as often as the state of business may require, and a regular diary shall be kept of their proceedings.—Reg. IX., 1793, sec. lxviii.

2. The court is empowered and directed to take cognizance of all matters relating to the administration of justice in criminal cases and the police of the country, and to submit to the Governor-General and Council such regulations regarding them as it may deem advisable.—Reg. IX., 1793, sec. lxxii.

3. The sentences of the Court of Nizamut Adawlut shall be regulated by the Mahomedan law, excepting in cases in which a deviation from it may be expressly directed by any Regulation.—Reg. IX., 1793, sec. lxxiv.

4. The head cauzy and the mufties shall assemble at the office of the register three times in every week, or oftener if necessary, and the register shall lay before them Persian copies of the proceedings in the trials that may be referred by the Sessions Courts for the final sentence of the Nizamut Adawlut whenever the court shall so direct. In such cases, after duly considering the proceedings, and previous to leaving the office of the register, they shall state in writing, at the foot of the record of each trial, whether the futwah of the law officers is consistent with the evidence and conformable to the Mahomedan law. If it be not, they shall state what futwah ought in their opinion to have been delivered, and subscribe their names, and affix their seals to their respective opinions. The register shall submit the proceedings, in the cases so revised by the head cauzy and the mufties, to the Nizamut Adawlut at their next meeting, when the court, after perusing the proceedings of the Sessions Court, the futwah of the law officers of that court, and the futwah of the head cauzy and the mufties of the Nizamut Adawlut, shall pass the final sentence. Provided, however, that it shall not be necessary that a futwah be filed by the law officers in every case that may be referred for the final sentence of the Nizamut Adawlut. The judge or judges by whom the proceedings shall be reviewed, shall exercise their discretion in requiring a futwah or otherwise, except in cases in which exemption from the futwah is prescribed.—Reg. IX., 1793, sec. lxxvii.; Reg. VI., 1832, sec. vi.

5. The Mahomedan law officers of the Court of Nizamut Adawlut shall continue to deliver their joint futwah upon the trials referred to that court, as far as may be practicable. But, whenever, from the number of trials in reference, it may be requisite for their speedy decision that they should be divided amongst the law officers for revision, it shall be competent to any one of the law officers to deliver a futwah thereupon. Provided that, if any one of the law officers of the Nizamut Adawlut, on revising the proceedings held upon the trial, shall not concur with the law officer of the Sessions Court before whom the trial may have been held, as to the conviction of the prisoner, he shall not write the futwah until one or more of the other law officers of the Nizamut Adawlut can deliver the same in concert with him, after perusal of the proceedings.—Reg. VIII., 1808, sec. vii.

6. In cases referred to the Nizamut Adawlut on the ground that the evidence given on the trial was deemed incompetent by the Mahomedan law, solely on account of the persons giving such evidence not professing the Mahomedan religion, or on the ground of the witness being a police-officer, or an officer of Government of any description, the Nizamut Adawlut, provided they approve of the proceedings held on the trial, shall pass such sentence as they would have passed had the witness who had been so deemed incompetent, been of the Mahomedan persuasion.—Reg. IX., 1793, sec. lvi., and Reg. XVII., 1817, sec. v.

7. In all criminal trials before the Court of Nizamut Adawlut (except for crimes against the State, in which cases the proceedings held upon the trial are required to be submitted with the sentence of the court, for the orders of Government), if the futwah of the law officers of the Nizamut Adawlut, or the sentence of an assembly of hill chiefs in zillah Boglepore (held under the provisions of Regulation I., 1827), shall declare a prisoner or prisoners liable to a more severe

punishment than on due consideration of the evidence and all the circumstances of the case may appear to the Court of Nizamut Adawlut to be just, or if a prisoner or prisoners (not charged with a crime against the State) shall in any case before the Court of Nizamut Adawlut, under the provisions of the laws and Regulations in force, be liable to a more severe punishment than may appear to the court equitable, though not specifically declared by the futwah of the law officers or sentence of the hill chiefs in zillah Boglepore, it shall be competent to the Court of Nizamut Adawlut to grant such remission or mitigation of punishment as may appear just and proper according to the evidence and circumstances of the case, and to pass sentence accordingly, provided that, in all such cases, the Court of Nizamut Adawlut shall record the grounds upon which a remission or mitigation of punishment may be adjudged under the discretion vested in the court, and shall communicate the same to the Sessions Court (or magistrate of zillah Boglepore) before whom the trial may have been held, with directions to cause the same to be made known in open court to the prisoner or prisoners concerned —Reg XIV, 1810, sec iii

8 Nothing contained in this or any other Regulation shall be understood to preclude the Governor-General in Council from the exercise of the power reserved to the chief executive authority, in all cases when it may appear proper to pardon any person charged with or convicted of a criminal offence In all such cases, a letter from the Secretary to the Government in the judicial department, addressed to the register of the Nizamut Adawlut, or to any zillah or city magistrate, or to any other local authority, shall be deemed a sufficient voucher of the pardon thereby notified, and shall be observed accordingly —Reg XIV, 1810, sec vi

9 In cases in which the accused had been acquitted by the futwah of the law officers of the Sessions Court, but the judge being of opinion that the evidence was sufficient to convict the prisoner had referred the trial to the Nizamut Adawlut, the Mahomedan law officers of that court shall write their futwah thereupon, as in other trials referred under the general Regulations — Reg XVII, 1817, secs ii and iii

10. In the foregoing cases and in all trials referred to the Nizamut Adawlut, when the futwah of one or more of the law officers of that court may acquit a prisoner of the whole or any part of the charge preferred against him, and two or more judges of that court, on a deliberate consideration of the evidence and circumstances of the case, shall concur in opinion that the proof against the prisoner so acquitted, whether founded on his free and voluntary confession, or on the testimony of credible witnesses, or on circumstances of strong presumption, is sufficient to convict him of the whole, or any part of the charge, and that he is in every respect a proper object of punishment, the judges so concurring in opinion are declared competent to convict and pass sentence of punishment upon the prisoner, according to the nature and degree of his offence, and the provisions applicable thereto, in the laws and Regulations in force, in like manner as if he had been declared convicted by the futwah of the law officers —Reg XVII, 1817, sec iv

11 The foregoing rule shall be considered to extend to any case in which the futwah of the law officers of the Nizamut Adawlut may declare the legal penalty or punishment generally barred, by reason of a doubt as to the prisoner's sanity when he committed the act charged, provided two or more judges of the Nizamut Adawlut, on due consideration of the evidence in such case, shall be satisfied that there is no sufficient ground to believe that the prisoner was insane when he committed the act so charged, and that he is a proper object of punishment—Reg IV, 1822 sec vii

12 Whenever two or more judges of the Nizamut Adawlut, on a deliberate consideration of any futwah of their law officers, convicting a prisoner, may consider such prisoner to have been convicted on insufficient or unsatisfactory evidence, it shall be competent to the said judges to acquit the prisoner.—Reg. IV, 1822, sec ii

13 Whenever a criminal trial may be referrible to the Nizamut Adawlut by reason of the session judge differing in opinion with his law officer as to the conviction or acquittal of one or more prisoners included in the same trial, the sentence in which, in regard to the other prisoners, may be within his competence under the Regulations in force, it shall be necessary for the Nizamut Adawlut, or for a single judge of that Court, to revise only such parts of the proceedings on the trial as relate to the prisoner or prisoners in respect to whom the reference may be made — Reg IX, 1831, sec iv, cl 3

14 The register, within three days after the passing of the final sentence, or sooner if practicable, shall transmit a copy of it, under the seal of the Nizamut Adawlut, and attested with his official signature, to the judge of the Sessions Court, who shall immediately issue a warrant to the proper magistrate to cause the sentence to be carried into execution The magistrate, upon the receipt of the warrant, shall cause the sentence to be executed without delay, and return the warrant to the Sessions Court, with an endorsement attested with his official seal and signature, certifying the manner in which the sentence has been executed All warrants so returned are to remain with the Sessions Court, excepting warrants for the infliction of capital punishment, which are to be forwarded by the judges to the Nizamut Adawlut —Reg. IX, 1793, sec lxxviii

POWERS OF SINGLE JUDGES.

15. The sittings of the Court of Nizamut Adawlut shall be held before two or more judges, whenever the number of trials and other business depending before the Court may admit of it. But whenever the number of depending trials may render it necessary for their speedy determination that the judges should hold separate sittings, it shall be competent to any one judge to hold a sitting of the court, and to pass orders or sentence, in conformity with the Regulations, upon any trial under reference to it, as well as upon miscellaneous references to or from the Sessions Court and magistrates upon petitions receivable by the Court of Nizamut Adawlut, and generally upon all matters appertaining to the cognizance of that Court under the Regulations in force. Provided, however, that if the single judge so sitting shall not concur with the session judge before whom the trial was held, with respect to the conviction of the prisoner, or if he be of opinion that the decision or order of a Sessions Court, magistrate, or other public officer, should be reversed or altered, he is not to pass a sentence or final order without the concurrence of one or more of the other judges of the court: nor is he in any case, by his single authority, to reverse or alter a former decision or order of one or more of the judges of the court.—Reg. VIII., 1808, sec. vi.; Reg. XXV., 1814, sec. xvii.

16. The foregoing provision, which includes all instances of a difference of opinion upon the guilt or innocence of a prisoner, is now extended to all cases in which the session judge, before whom the trial shall have been held, may recommend a mitigation of punishment, upon grounds which a single judge of the Nizamut Adawlut, holding the sitting of that court, may deem insufficient. In such cases, the opinion of a second judge of the Nizamut Adawlut shall be taken upon the mitigation proposed by the session judge; and in giving such opinion he will examine the proceedings upon the trial as far as may be necessary to enable him to form a judgment upon the stated grounds of mitigation.—Reg. XVII., 1817, sec. xvii.

17. When the judge of a Sessions Court, referring a criminal trial to the Nizamut Adawlut, shall state circumstances of extenuation, or other special grounds for a mitigation of punishment, in behalf of any prisoner or prisoners, and a single judge of the Nizamut Adawlut holding the sitting of that court, shall concur in the mitigation of punishment recommended by the session judge, it shall be competent to the judge so concurring to grant the proposed mitigation, and to pass sentence accordingly; in like manner as two judges of the Nizamut Adawlut are declared competent to grant a mitigation, or remission of punishment, whenever it may appear just and proper, under the provisions contained in Section III., Regulation XIV., 1810.—Reg. XVII., 1817, sec. xviii., cl. 1.

18. A single judge of the Nizamut Adawlut, holding the sitting of that court on a criminal trial under Section VI., Regulation VIII., 1808, is further declared competent to mitigate or remit any part of the prescribed punishment, if it appear to him just and proper on the grounds stated in Section III., Regulation XIV., 1810, although a mitigation or remission may not be proposed by the session judge referring the trial; but in such cases the grounds on which a mitigation or remission of punishment may be granted shall be recorded and communicated to the Sessions Court, for the information of the prisoner or prisoners, as required by the above-mentioned section of Regulation XIV., 1810.—Reg. XVII., 1817, sec. xviii., cl. 2.

19. In trials referred to the Nizamut Adawlut, which may include one or more prisoners liable to a sentence of death, it shall not be competent to a single judge of the Nizamut Adawlut to pass the final sentence, which in all such cases shall be passed by at least two concurring judges of the court.—Reg. XII., 1825, sec. viii.

20. If a single judge of the Nizamut Adawlut concur in opinion with the session judge, whether for conviction or acquittal, it shall be competent to such single judge to pass a final sentence, whatever may be the futwah of the law officers of the Nizamut Adawlut, except for capital punishment, which as heretofore shall, in all cases, require the concurrent opinion of two judges of the court.—Reg. IX., 1831, sec. iv., cl. 4.

21. Provided, however, that it shall not be competent to a single judge to convict and sentence to punishment any prisoner in opposition to the opinion of the session judge, if the latter be for acquittal, or otherwise in favour of the prisoner.—Reg. IX., 1831, sec. iv., cl. 5.

22. In the cases above referred to, the session judges will, as heretofore, suspend execution of any sentence of punishment they pass in concurrence with the law officer, until the final sentence or orders of the Nizamut Adawlut shall have been received upon the trial referred to that court; nothing in this Regulation being intended to preclude the Nizamut Adawlut from revising the whole proceedings in the cases in question, if there shall appear sufficient grounds for so doing.—Reg. IX., 1831, sec. iv., cl. 6.

## NIZAMUT ADAWLUT.—POWERS OF SINGLE JUDGES.

23. Nothing in the foregoing paragraphs shall be understood to prohibit a single judge in any case of difficulty or importance, in which he may deem it expedient and proper that the matter at issue should be decided by two or more judges of the court, from recording his own opinion thereon, and referring the case to another judge.—Reg. IX., 1831, sec. ii., cl. 6, and sec. iv., cl. 7.

24. Whenever any offender shall have been sentenced in the first instance by a session judge to imprisonment for life, or whenever a session judge shall have recommended that sentence of imprisonment for life be passed upon any offender, it shall be competent to a single judge of the Sudder Court to sentence such offender at the same time to transportation beyond sea for life, and such single judge is directed to sentence such offender at the same time to transportation beyond sea for life unless there should be special reasons inducing him to think such offender not a proper subject for transportation, which special reasons he is further directed to record.—Act XIV., 1844, sec. ii.

# CRIMINAL JUDICATURE.

## SPECIFIC OFFENCES.

### TABLE OF ENACTMENTS.

| Original Regulation or Act. | Paras. in Consolidation. | REMARKS. |
|---|---|---|
| 1793. IV. xiv. | 84 | |
| IX. l. & lxxv. | 4 | Additions from sec. v., Reg. VIII., 1799. |
| XXXV. xii. | | Incorporated with cl. 3, sec. x., Reg. XVII., 1817. |
| 1797. IV. ii. | | Unnecessary. |
| iii., iv. | 1, 2 | Additions from sec. vii., Reg. XVII., 1817, in paragraph 1. |
| v. | | Unnecessary. |
| vi. | 3 | |
| 1799. IV. ii. to vi. | | Superseded by Act V., 1841. |
| VIII. | | |
| ii. to iv. | 5 to 7 | |
| v. | | The first part of this section is unnecessary; the latter part is incorporated with sec. lxxv., Reg. IX., 1793. |
| vi. | | Rescinded by sec. ii., Reg. VII., 1820. |
| 1801. III. ii. | 85 | |
| VIII. ii., iii. | 14, 15 | |
| iv., v. | 17, 18 | |
| vi. | 16 | |
| 1802. VI. ii. to iv. | 8 to 10 | |
| 1803. LIII. | | |
| iii. 1, 2. | 27, 28 | |
| iii. 3. | | Rescinded by Act XXIV., 1843. |
| iv. 1, 2. | 29, 30 | |
| iv. 3. | | Rescinded by sec. ii., Reg. VIII., 1808. |
| iv. 4 to 6. | 31 to 34 | Additions from sec. iii., Reg. III., 1805, and from Reg. II., 1834, in cl. 4. |
| v. 1. | | Incorporated with cl. 7, sec. viii., Reg. XVII., 1817. |
| v. 2. | | Rescinded by cl. 1, sec. viii., Reg. XVII., 1817. |
| 1804. III. xi. | 11 | The first part of this section is extinct. |
| X. ii. to iv. | 121 to 123 | |
| 1805. III. ii. | | Superseded by Reg. II., 1834, and sec. ii., Reg. VIII., 1808. |
| iii. | | Incorporated with cl. 4, sec. iv., Reg. LIII., 1803. |
| iv. | 39 | |
| v. | 40 | |
| vi. | 71 | |
| 1807. II. ii. | | Unnecessary; only rescinds. |
| iii. | | Incorporated with cl. 2, sec. ix., Reg. XVII., 1817. |
| iv. | 79 to 81 | Additions from cls. 1 & 2, sec. xiii., Reg. XVII., 1817, in paragraphs 79, 80. |
| v., vi. | 86, 87 | |
| 1808. VIII. ii. | | Unnecessary. |
| iii. | 34 | Additions from cls. 5 & 6, sec. iv., Reg. LIII., 1803; the latter part of sec. iii. is unnecessary. |
| iv. | | Unnecessary. |
| x. | | Extinct. |
| 1811. I. ii. 1. | | Unnecessary. |
| ii., iii. 2. | 53 to 56 | Additions from Reg. II., 1834. |
| iv. | | Included in sec. ii., Reg. XI., 1814. |
| vi. | 64 | |
| vii., viii. | | Rescinded by cl. 1, sec. iv., Reg. XII., 1818. |
| VII. | | |
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| | | viii. 1 to 3. | | Unnecessary. |
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| 1822. | I. | ii. | | Unnecessary; being only an amendment. |
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| | | iii. 2. | | Rescinded by sec. ii., Reg. I., 1831. |
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| 1831. | I. | ii. | | Unnecessary; only rescinds. |
| 1832. | VI. | vi. | | Incorporated with cl. 2, sec. ix., Reg. XVII., 1817. |
| 1836. | XXX. | i., ii. | 24, 25 | Additions from Act XVIII., 1837, and Act XVIII., 1839, in paragraph 24; and from Act X., 1847, in paragraph 25. |
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| 1839. XVIII. | | Incorporated with secs. i. & ii., Act XXX., 1836; and with sec. ii., Act XI., 1848. |
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| XI. i. to iii. | 40 to 43, 75 | Additions from sec. ii., Act XXIV., 1843; and Act XVIII., 1839, in paragraph 75. |
| 1849. I. i. | | Unnecessary; only rescinds. |
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# CRIMINAL JUDICATURE.

## SPECIFIC OFFENCES.

### MURDER AND HOMICIDE.

1. In trials for murder before the Sessions Court, the law officer who had been present during the trial shall be required by the judge to declare whether the prisoner is convicted of the charge against him, and shall subscribe his answer on the record of the court's proceedings. If the law officer shall declare the prisoner to be not guilty, the judge shall pass an immediate sentence of acquittal and order him to be discharged; unless he shall see cause to disapprove such verdict, in which case he is to refer the proceedings on the trial for the sentence of the Nizamut Adawlut. If the answer of the law officer shall declare the prisoner to be convicted of wilful murder (kutl-amd), the judge, without making any reference to the heir or heirs of the slain, shall require the law officer to declare the punishment to which the prisoner convicted would be liable according to the Mahomedan law, supposing all the heirs of the slain entitled to prosecute the prisoner for kissaas to have attended and prosecuted him, at an age competent to demand kissaas, and to have demanded kissaas. The futwah of the law officer upon this reference shall be also subscribed on the record of the court's proceedings, and whether the futwah declare the prisoner liable to suffer death, as must be the case in most instances of conviction of wilful murder under the supposed demand of kissaas by the heirs of the slain, or whether it declare the prisoner not liable to capital punishment, from the heirs of the slain not being legally entitled to demand kissaas, or the failure of retaliation from the parties standing in the relation of parent and child, or master and slave, or otherwise, the judge is, in either case, to refer the proceedings for the sentence of the Nizamut Adawlut. Should the answer of the law officer to the first reference acquit the prisoner of wilful murder, but convict him of homicide, of any one of the four denominations distinguished in the Mahomedan law (viz. shibeh-amd, kutl-khota, kutl-kayeem-mokam-ba-khota, and kutl-ba-subbub), the law officer is to declare the prescribed penalty for the same according to the Mahomedan law; and if his futwah should declare the deyut, or price of blood, to be the whole or part of the legal punishment, the Sessions Court is to commute the fine to imprisonment with hard labour, for such period, not exceeding seven years, as it may consider adequate to the offence; and its sentences in such instances, as in all others according to the existing Regulations, are to be carried into execution without reference to the Nizamut Adawlut if for temporary imprisonment, or referred to that court if for imprisonment for life; subject to the general provision for referring to the Nizamut Adawlut all trials whereon the Sessions Court may disapprove of the futwahs of their law officers.—Reg. IV., 1797, sec. iii.; Reg. XVII., 1817, sec. vii.

2. In all cases so referred to the Nizamut Adawlut, the law officers of that court, provided they shall be of opinion that the prisoner is duly convicted of murder, shall write their futwah upon the case referred to the law officer of the Sessions Court, assuming always that all the heirs of the slain entitled to prosecute for kissaas attended and prosecuted at an age which rendered them competent to demand kissaas, and that they demanded kissaas. But if they shall be of opinion that the prisoner is not duly convicted of wilful murder, they are to state their reasons for such opinion, and whether they consider the prisoner altogether innocent, or convicted of homicide under any of the four denominations distinguished by the Mahomedan law, adding, in the latter case, the legal penalty to which the prisoner is liable: and the Court of Nizamut Adawlut, after considering their futwah so given, with the whole of the proceedings on the case, are either to require further evidence if they see occasion, or to pass such final sentence as may appear consonant to justice and conformable to the Mahomedan law; with the exceptions and modifications which have been, or may be, authorized by the Regulations, and subject to the several provisions therein contained. If in any case not provided for by the Regulations, the Mahomedan law appear to the Court repugnant to justice, they are notwithstanding to adhere thereto, if in favour of the prisoner, in the case before them.—Reg. IV., 1797, sec. iv.

3. If any person or persons of the Sutar caste, or of any other caste or persuasion, within the Company's provinces or the province of Benares, shall hereafter put any person to death on the ground of his or her being versed in and practising sorcery, or on any other ground, such person or

persons, on being convicted of the crime, shall be held guilty of murder, and be invariably punished accordingly; and if any persons shall either actually form themselves into an assembly for the purpose of trying any man or woman on a charge of witchcraft, or on any other charge, or shall cause such assemblies to be held, and any person or persons shall, in consequence, be put to death, they shall be considered as accomplices in the murder, and be dealt with accordingly.—Reg. IV., 1797, sec. vi.

4. In trials for murder, the law officers of the Sessions Court and of the Court of Nizamut Adawlut respectively, shall deliver their futwahs or opinions upon the case according to the doctrines of Yusuf and Mahomed. The distinctions, however, made by those imaums and by Hunneefah, as to the mode of committing murder, shall not be adhered to by the Nizamut Adawlut, but the intention of the criminal, either evidently or fairly inferrible from the nature and circumstances of the case, and not the manner or instrument of perpetration (except as evidence of the intent), shall constitute the rule for determining the punishment. Wilful homicide by poisoning or by drowning, when the intention of poisoning or drowning is evident, is included in the above rule; and in all such cases the Nizamut Adawlut, whatever may be the futwah of their law officers, are to sentence the prisoner to suffer death, provided they judge him fully convicted of wilful murder, and do not consider him a proper object of mercy.—Reg. IX., 1793, secs. l. & lxxv.; and Reg. VIII., 1799, sec. v.

5. In every case of wilful murder, wherein the crime may appear to the Court of Nizamut Adawlut to have been fully established against the prisoner, but the futwah of the law officers of that Court shall declare the prisoner not liable, under the Mahomedan law, to suffer death by kissaas, solely on the ground of the prisoner's being father or mother, grandfather or grandmother, or other ancestor of the slain, or of the heir of the slain; or one of the heirs of the slain, being the child or grandchild, or other descendant of the prisoner; or of the slain having been the slave of the prisoner or of any other person, or a slave appropriated for the service of the public; or on any similar ground of personal distinction, and exception from the general rules of equal justice, the Court of Nizamut Adawlut, provided they see no circumstances in the case which may render the prisoner a proper object of mercy, shall sentence him to suffer death, as if the futwah of their law officers had declared him liable to kissaas; or to suffer death by seeasut, as authorized by the Mahomedan law in all cases of wilful murder, under the discretion vested in the magistrate with regard to this principle of punishment for the ends of public justice.—Reg. VIII., 1799, sec. ii.

6. It shall not justify any prisoner convicted of wilful homicide, that he or she was desired by the party slain to put him or her to death; and in the event of the prisoner being convicted of the fact to the satisfaction of the Nizamut Adawlut, and of their seeing no circumstances in the case which may render him or her a proper object of mercy, they shall sentence him or her to suffer death, whatever may be the futwah of their law officers under the Mahomedan law; which in this instance also, although it withholds kissaas, gives a full latitude to the magistrate in the discretionary punishment of tazeer or seeasut: and experience has shown the necessity of inflicting the punishment for murder in such cases, to preserve the lives of many from the effects of passion or revenge, aided (especially in the province of Benares) by the erroneous prejudices of superstition.—Reg. VIII., 1799, sec. iii.

7. If the futwah of the law officers of the Nizamut Adawlut declare any person convicted of wilful murder not liable to suffer death under the Mahomedan law, on the ground of one or more of his accomplices being exempted from kissaas under any of the circumstances recited in paragraphs 5 and 6, or on any similar ground of exemption, the Court of Nizamut Adawlut shall, notwithstanding such futwah, sentence the prisoner to suffer death, if in their judgment he be duly convicted and be not a proper object of mercy: and in all cases, if the accomplice in a wilful murder, though not the principal perpetrator of the murder, shall appear to the Nizamut Adawlut fully convicted and deserving of death, they are authorized, under the discretion given by the Mahomedan law in such cases, to sentence the prisoner to suffer death, whether the futwah of their law officers declare the same or otherwise.—Reg. VIII., 1799, sec. iv.

8. If any person or persons shall wilfully, and with the intention of taking away life, throw or cause to be thrown into the sea or into the river Ganges, or into any other river or water, any infant or person not arrived at the age of maturity, with or without his or her consent, in consequence whereof such person, so thrown into water, shall be drowned, or shall be destroyed by sharks or by alligators, or shall otherwise perish, the person or persons so offending shall be held guilty of wilful murder, and on conviction shall be liable to the punishment of death; and all persons aiding or abetting the commission of such act shall be deemed accomplices in the murder, and shall be subject to punishment accordingly. The trials of prisoners convicted as principals or accomplices of the crimes specified in this section shall be referred to the Court of Nizamut Adawlut, which is to pass sentence thereupon according to Section LXXV., Regulation IX., 1793, whatever may be the futwah of the law officers of that court.—Reg. VI., 1802, sec. ii.

9. If a child, or any person not arrived at maturity, be thrown into water, as stated in the

preceding paragraph, and be rescued from destruction, or by any means escape from it, the persons who shall have been active in exposing him or her to danger of life, and all aiders and abettors of such act, shall be held guilty of a high misdemeanor, and on conviction shall be liable to such punishment as the Sessions Court, under the futwah of their law officers, may judge adequate to the nature and circumstances of the case.—Reg. VI., 1802, sec. iii.

10. The magistrates of districts wherein the sacrificing of children may have been hitherto practised, are required to be vigilant to prevent the continuance of the practice, and shall cause the provisions of this Regulation to be from time to time proclaimed at the places, and in the season where and when such sacrifices have hitherto been effected.—Reg. VI., 1802, sec. iv.

11. If any Rajkoomar shall designedly prove the cause of the death of his female child by prohibiting its receiving nourishment or in any other manner, he shall be tried in the manner directed in other cases of murder.—Reg. III., 1804, sec. xi.

12. In all cases of murder, mutilation, or severe personal injury, in which the heir of the slain, or the person injured, may refuse to prosecute, the law officers of the Nizamut Adawlut shall be called on to declare what the futwah would have been in the event of their having prosecuted; and the judge or judges sitting on such trial shall pass sentence under the general Regulations, and on a consideration of all the circumstances of the case, the same as if the parties had come forward to prosecute.—Reg. IV., 1822, sec. iii.

13. It having been found that in certain cases of murder, the justificatory plea, that the person murdered was the mistress or relation of the prisoner, and detected in criminal intercourse with another man, or that the murdered man was found in criminal intercourse with the prisoner's mistress or relation, or, generally speaking, detected in fornication, has been upheld by the law officers in bar of capital or discretionary punishment, and has been declared to subject such prisoner to deyut only, it is enacted, that the law officers of the Nizamut Adawlut shall be called on to declare in such cases what the futwah would have been if such plea had not existed, and the judge or judges sitting on the trial shall pass sentence under the general Regulations, and on consideration of all the circumstances of the case, the same as if no such plea had existed.—Reg. IV., 1822, sec. v.

14. Any person who may be convicted of having deliberately and maliciously intended to murder one individual, and of having, in the prosecution of such intention, accidentally killed another individual, shall, on account of the murderous intention and actual homicide, be liable to the punishment of murder, in like manner as if he had killed the person intended to be murdered. In all such cases, the law officers of the Sessions Courts and of the Nizamut Adawlut (to which Court all trials of this description are to be referred) shall be required to state what punishment the prisoner would have been liable to if he had committed the murder intended by him; and if their futwah shall declare him in such case liable to suffer death, or if, under the futwah so given, and the modifications of the Mahomedan law contained in the Regulations, the prisoner be liable to suffer death, the Court of Nizamut Adawlut, provided it be established to their satisfaction that the prisoner intended to commit the crime of deliberate and malicious murder, and that the homicide charged against him was actually committed by him in the prosecution of such murderous intention, shall sentence the prisoner to suffer death, unless they shall see any circumstances which may in their judgment render him a proper object of mercy.—Reg. VIII., 1801, sec. ii.

15. The rule contained in the preceding paragraph is to be considered equally applicable to any other cases of homicide which may be declared by the law officers of the Sessions Courts or Nizamut Adawlut to be within the Mahomedan law of kutl-khota, kutl-kaeem-mokam-ba-khota, or other legal denominations of accidental homicide; but in which the prisoner shall be clearly convicted of having committed the homicide proved against him with a murderous intention, such as if carried into effect would have subjected him to a sentence of death; or with a deliberate intention to commit any crime that, if committed in pursuance of the prisoner's criminal design, would have rendered him liable to a sentence of death.—Reg. VIII., 1801, sec. iii.

16. Such part of Section III., Regulation IV., 1797, as authorizes the Sessions Courts in cases of kutl-khota, and other cases of accidental homicide, when the prisoner may be declared liable to the deyut, or price of blood, to commute such price to imprisonment, is not to be considered applicable to any of the cases noticed in paragraphs 14 and 15, but is to be in force, as heretofore, with regard to cases of homicide not otherwise provided for by the above paragraphs. The Sessions Courts, however, are not to sentence the prisoner to suffer any imprisonment or other punishment in the cases of accidental homicide mentioned in Section III., Regulation IV., 1797, although the deyut should be declared by their law officers to be payable under the Mahomedan law, if the homicide shall clearly appear to have been committed by misadventure in the prosecution of a lawful act, and without any malignant intention.—Reg. VIII., 1801, sec. vi.

WOUNDING AND MAIMING.

17. Any person who may be convicted of having unlawfully and maliciously intended to wound, maim, or otherwise do corporal injury to one individual, and of having, in the prosecution of such intention, accidentally wounded, maimed, or otherwise corporally injured another individual, shall be held punishable for the act committed by him with such unlawful and malicious intention, in like manner as if such act had been perpetrated on the person intended to have been wounded, maimed, or otherwise injured. The law officers of the Sessions Courts, in such cases, shall be required to state the punishment to which the prisoner would have been liable if he had committed the act of which he is convicted, upon the person intended to have been wounded, maimed, or otherwise injured by him; and the Sessions Courts shall pass sentence accordingly, or refer the trial to the Court of Nizamut Adawlut, as the case may be referrible to that Court, or otherwise, under the general Regulations.—Reg. VIII., 1801, sec. iv.

18. In trials referred under the preceding paragraph to the Court of Nizamut Adawlut, the law officers of that Court shall also declare in their futwah to what punishment the prisoner would have been liable, if the act of which he is convicted had been committed as intended by him; and the Court, after considering such futwah with the whole of the proceedings in the case, are to pass such sentence on the prisoner, short of death, as they may judge adequate to his offence.—Reg. VIII., 1801, sec. v.

19. In many cases of corporal injury, extending even to mayhem, it has been found that the law officers, on the full conviction of the prisoners, declare them liable to hukoomuti adul only, or a just reward, which is construed by them to mean, payment by the prisoner of the expenses incurred for medicines and medical attendance by the party injured; and such reparation being considered wholly inadequate, it is enacted, that the session judges shall, under such futwah, be competent to pass sentence of imprisonment for any period not exceeding seven years, with power to refer the record to the Nizamut Adawlut, in any case in which they may deem that degree of punishment inadequate; and on the receipt thereof, the Nizamut Adawlut, after requiring a further futwah from their law officers, shall pass sentence of imprisonment for such limited period of time as under all the circumstances of the case may be equitable and just.—Reg. IV., 1822, sec. vi.

20. In all cases of wounding, manifesting a deliberate intention to commit murder, the law officer sitting on the trial shall declare whether the intention to commit murder be established.—Reg. XII., 1829, sec. ii., cls. 1 & 2.

21. If the law officer find the intent to commit murder, and the judge holding the trial concur therein, it shall be competent to him to pass such sentence of imprisonment as he may deem adequate to the crime, not exceeding the period of fourteen years' imprisonment.—Reg. XII., 1829, sec. ii., cl. 3.

22. In any case in which a judge may dissent from the futwah of the law officer, regarding the intent to commit murder, it shall be competent to such judge to make a reference to the Nizamut Adawlut, as, under the like circumstances, is, in all other cases, authorized by the general Regulations.—Reg. XII., 1829, sec. iii.

THUGGEE.

23. The offence denominated "Thuggee" is declared to be the committing, or attempting to commit, in gangs or companies, the crime of murder, or child-stealing, or robbery not amounting to dacoity. A "Thug" is declared to be a person who is or has at any time been habitually associated with any other or others for the purpose of committing any of the above offences, by means intended or known by such person to be likely to cause the death of any person; and "murder by Thuggee" is declared to mean murder when employed as the means of committing such child-stealing or such robbery by a Thug.—Act III., 1848.

24. Any person charged with murder by Thuggee, or with having belonged to any gang of Thugs, or of unlawfully and knowingly receiving or buying property stolen or plundered by Thuggee, either within or without the territories of the East-India Company, may be committed by any magistrate or joint magistrate within the territories of the East-India Company, and may be tried by any Criminal Court competent to try such person on such charge, if the offence had been committed within the zillah where that Court sits.—Act XXX., 1836, secs. i. & ii.; Act XVIII., 1837; and Act XVIII., 1839.

25. Any person proved to have belonged to any gang of Thugs shall be punished with imprisonment for life, with hard labour, and to transportation beyond sea, unless there should be special reasons inducing the Court to think such prisoner not a proper subject for transportation, which reason the Court is to record.—Act XXX., 1836, sec. i.; and Act X., 1847.

26. On the trial of any person for having belonged to a gang of Thugs, no Court shall require any futwah from any law officer.—Act XXX., 1836, sec. iii.

27. Any person or persons who shall, in the day or in the night, go forth with any offensive weapon, or in a gang with or without an offensive weapon, with the criminal intent of committing robbery, and shall, by force or intimidation, rob, or attempt to rob, any person or persons on or near a highway, or on a river, lake, or other water, or in or near a city, town or village, or in any other place whatever, or shall attack by open violence, and rob, or attempt to rob, any dwelling-house, or other house or building, or any tent, boat, or other receptacle of persons or property, in which there may be any person or property at the time of such robbery, or of such attempt to rob, shall be deemed guilty of the crime of robbery by open violence (denominated in the Mahomedan law suruca-i-kubra, and more commonly shub-khoone, or dukytee); and on due conviction thereof, whether by free and voluntary confession, or by the testimony of credible witnesses, or by strong circumstantial evidence, shall be adjudged to suffer such of the penalties declared in the next section as may be applicable to the case, viz. according as the robbery may be, with or without homicide, wounding, maiming, or other personal injuries, or with or without other circumstances of aggravation.—Reg. LIII., 1803, sec. iii., cl. 1.

28. In such cases of robbery by open violence, the punishment of the offenders shall not depend upon the amount, value, or description of the property plundered. Nor shall any of the circumstances noticed in the preamble to this Regulation, as barring a sentence of hud under the Mahomedan law in cases of highway robbery, nor any other provision in that law, be hereafter allowed to operate against the punishment of persons convicted of highway robbery, or of any robbery by open violence, as defined in the preceding paragraph; or of murder, or other acts of criminality committed in the prosecution of such robbery; or of an intent to rob; provided, as in all other cases of criminal conviction and punishment, that the party convicted be adult and of sound understanding, so as to render him a proper object of punishment.—Reg. LIII., 1803 sec. iii., cl. 2.

29. All persons convicted of being the heads or leaders of a gang of robbers by whom a murder may have been committed, or of having been actively concerned in the perpetration of such murder, or of any murder committed in the prosecution of robbery or an intent to rob, or of having been present, aiding and abetting, when such murder was committed, or, though not present, of having procured and caused by hire, counsel, or command, the perpetration of such murder, in pursuance of a preconcerted plan to commit the same, or to commit robbery, shall be adjudged to suffer death.—Reg. LIII., 1803, sec. iv., cl. 1.

30. All persons convicted of being the heads or leaders of a gang of robbers by whom any person may have been wounded, maimed, burnt, or subjected to other personal injury, torture, or cruelty, not occasioning homicide, or by whom a dwelling-house or houses may have been set on fire, or any other criminal and aggravating act committed, in the prosecution of a robbery or intent to rob, as well as persons convicted of having been actively concerned in any of the acts aforesaid, done in prosecution of a robbery or intent to rob, or of having been present aiding and abetting, when any such acts were committed, or, though not present, of having procured and caused by hire, counsel, or command, the perpetration of any such acts in pursuance of a preconcerted plan to commit the same or to commit robbery, shall be adjudged to suffer imprisonment and transportation for life. Moreover, any leaders of gangs, or other heinous offenders, convicted of a repetition of the crime described in this clause, or without such repetition, of a degree of cruelty, violence, or other aggravating criminality, which, under the discretion allowed by the Mahomedan law in cases of seeasut, may be punishable with death, and which may appear to the Court of Nizamut Adawlut to render such heinous offenders deserving of capital punishment, shall be liable to a sentence of death.—Reg. LIII., 1803, sec. iv., cl. 2.

31. Persons convicted of going forth with a gang of robbers for the purpose of committing robbery, but apprehended before they have committed such, or have made any violent attempt for the purpose, shall be adjudged to suffer imprisonment and hard labour for such period, not exceeding seven years, and two years' additional imprisonment in commutation of corporal punishment, as the circumstances of the case may appear to merit.—Reg. LIII., 1803, sec. iv., cl. 4; Reg. III., 1805, sec. iii.; and Reg. II., 1834.

32. Provided, with respect to all the crimes and degrees of punishment specified in the several clauses of this section, if from any extenuating circumstances which may appear on the trial before the Sessions Courts or Court of Nizamut Adawlut, the stated punishment shall, in any particular instance, appear too severe, or if, on consideration of the number of prisoners convicted of the same crime, and of any discriminative circumstances with respect to one or more of them, the example shall appear sufficient for the ends of justice, without extending the full degree of the prescribed punishment to the whole of the prisoners convicted, it shall be competent to the Court

of Nizamut Adawlut, or to the Sessions Courts, if the trial be not referrible, under the Regulations, to the Nizamut Adawlut, to mitigate the sentence, in such cases as may be deemed just and expedient.—Reg. LIII., 1803, sec. iv., cl. 5.

33. The Sessions Courts are also to report to the Nizamut Adawlut the case of any prisoner or prisoners who may appear proper objects of mercy and pardon: or if the punishment to which they are sentenced shall not have been adjudged under any of the provisions of the Mahomedan law, or the Regulations expressly requiring the same, the Court of Nizamut Adawlut, as already authorized, may remit the punishment, and order the discharge of the prisoner.—Reg. LIII., 1803, sec. iv., cl. 6.

34. All persons convicted of being concerned as principals or accomplices in the crime of robbery by open violence, as defined in Section III., Regulation LIII., 1803, and who may not, under the Regulations in force, be liable to a sentence of death, shall be adjudged by the Sessions Court and by the Court of Nizamut Adawlut to be imprisoned and transported for life; unless from any extenuating circumstances appearing on the trial, the stated punishment shall appear too severe; in which case the Court of Nizamut Adawlut is authorized to mitigate the sentence or remit the punishment, if the prisoner appear a proper object of mercy and pardon.—Reg. VIII., 1808, sec. iii.; and Reg. LIII., 1803, sec. iv., cls. 5 & 6.

35. In case of conviction before a Sessions Court of the crime of robbery by open violence, as defined in Section III., Regulation LIII., 1803; or of an attempt to commit the same, if the robbery shall not have been accompanied with murder, or with an attempt to commit murder, whether by wounding, burning, strangling, poisoning, drowning, throwing into a well, orby any other means; nor have been accompanied with wounding, burning, or other corporal injury to any person or persons in such a degree as to endanger life; nor have been attended with any other aggravating act of criminality, such as may appear to the sessions judge, before whom the trial is held, to merit and call for a more severe punishment than imprisonment with hard labour for fourteen years in banishment from the district where the prisoner may have resided, and two years additional in commutation for corporal punishment, the sessions judge is authorized and directed to pass such sentence as he may deem adequate to the offence, on due consideration of all the circumstances of the case, not exceeding the term of imprisonment with hard labour in banishment above specified.—Reg. XVI., 1825, sec. iii., cl. 1.

36. Whosoever shall be proved to have belonged, either before or after the passing of this Act, to any gang of dacoits, either within or without the territories of the East-India Company, shall be punished with transportation for life, or with imprisonment for any less term, with hard labour.—Act XXIV., 1843, sec. i.

37. Any person accused of the offence of dacoity, with or without murder, or of having belonged to a gang of dacoits, or of the offence of unlawfully and knowingly receiving or buying property stolen or plundered by dacoity, may be committed by any magistrate within the territories of the East-India Company, and may be tried by any Court which would have been competent to try him if his offence had been committed within the zillah where that Court sits.—Act XXIV., 1843, sec. ii.

38. No Court shall, on trial of the offences specified in this Act, require any futwah from any law officer.—Act XXIV., 1843, sec. iii.

39. If any pyke, chokeedar, pasban, dosaad, nigabaan, or other village watchman or guard, of whatever denomination, entertained or employed by a landholder or by any other person for the protection of villages, houses, persons, or property, and consequently required by the Regulations to assist the police officers in preventing robbery and other crimes and in apprehending offenders; or if any police officer of whatever description (whether a police darogah or tehseeldar intrusted with the charge of the police, a city or town cutwal, or a jemadar, mohurir, burkundoss, piadah, or other person employed under the zillah and city magistrates, the police darogahs and tehseeldars, or under any other officers of the police, for the protection of the inhabitants of the country and their property from robbery, or for apprehending robbers and other criminals, or generally for the performance of any duty of police connected with the prevention of public offences) shall be convicted of the crime of robbery by open violence, as defined in Clause First of Section III., Regulation LIII., 1803, whether such conviction be founded upon the free and voluntary confession of the prisoner, or upon the testimony of credible witnesses, or upon strong circumstantial evidence; and the party so convicted shall not be liable to suffer death, as an accomplice in murder as well as robbery, he shall be held to come within the provisions of clauses 2 & 3 of sec. iv. of Reg. LIII., 1803, whereby the Nizamut Adawlut are authorized to pass sentence of death in cases of aggravated criminality which may appear to deserve it, although the robbery may not have been attended with actual homicide—or where the robbery may have been without any personal injury or other act of aggravation, to extend the sentence of that Court from imprisonment and hard labour for fourteen years, to imprisonment and transportation for life, if on consideration of any circumstances appearing upon the trial to aggravate the guilt of any particular prisoner, the infliction of such more

severe punishment shall appear just and necessary. Under this declaration, any watchman, guard, or police officer, as described in the present paragraph, who may be convicted of having been present, aiding and abetting, at a robbery by open violence, or at an attempt to commit such robbery; or though not present, of having procured and caused by hire, counsel, or command, the perpetration of such robbery or attempt to rob, will be liable to suffer death, on the sentence of the Court of Nizamut Adawlut, according to the Regulations, if in the prosecution of such robbery or attempt to rob, any person shall be murdered, wounded, maimed, burnt, or subjected to other personal injury, torture, or cruelty, or any dwelling-house shall be set on fire, or other criminal and aggravating act committed; or will be liable to a sentence of imprisonment and transportation for life, by the Court of Nizamut Adawlut, if the prosecution of such robbery, or attempt to rob, shall not have been attended with homicide, personal injury, or any of the other aggravating acts above specified. It is further declared, that any clear and direct connivance on the part of a watchman, guard, or police officer, as described in this paragraph, whereby a gang of robbers may have been enabled to commit any of the crimes above stated, shall, if duly established, subject the offender to the same penalty as he would have been liable to if actually present, aiding and abetting; or, though not present, if he had procured and caused the perpetration of the offence by hire, counsel, or command.—Reg. III., 1805, sec. iv.

40. If any watchman, guard, or police officer, as described in the preceding section, shall be convicted of going forth with a gang of robbers for the purpose of committing robbery, or of conniving at the going forth of a gang of robbers for such purpose, but he or they may be apprehended before they have committed robbery or made any violent attempt for the purpose, the watchman, guard, or police officer so convicted shall be liable to imprisonment, with hard labour, for such period, not exceeding fourteen years, as the circumstances of the case may, in the judgment of the Sessions Court before whom he is convicted, appear to merit; or if that Court shall, in any particular case, deem the prisoner deserving of more exemplary punishment, they shall refer the trial to the Court of Nizamut Adawlut, who are authorized, if sufficient ground appear, to extend the sentence to imprisonment, with transportation for life.—Reg III., 1805, sec. v.

### GANG-ROBBERY, NOT DACOITY.

41. Whosoever shall be proved to have belonged, either before or after the passing of this Act, to any wandering gang of persons, associated for the purposes of theft or robbery, not being a gang of thugs or dacoits, shall be punished with imprisonment, with hard labour, for any term not exceeding seven years.—Act XI., 1848, sec. i.

42. Any person accused of the offence of belonging to any such gang as aforesaid, or of the offence of unlawfully and knowingly receiving or buying property stolen or plundered by any such gang, may be committed by any magistrate within the territories of the East-India Company, and may be tried by any Court which would have been competent to try him if his offence had been committed within the zillah where that Court sits.—Act XI., 1848, sec. ii.

43. No Court shall, on the trial of any offence under this Act, require any futwah from any law officer.—Act XI., 1848, sec. iii.

### THUGGEE AND DACOITY.

44. It shall be lawful for the local Government of any part of the territories subject to the Government of the East-India Company to authorize the reception and detention in any part of those territories, for the periods specified in their respective sentences, of persons sentenced to imprisonment or transportation for the offences of thuggee, dacoity, or the offences of belonging to any gang of thugs or dacoits, within the territories of any native prince or state in alliance with the said Company. Provided always, that such sentences shall have been pronounced after trial before a tribunal, in which a covenanted servant of the East-India Company, duly authorized in that behalf by such prince or state, shall be one of the presiding judges. Every servant of the East-India Company, so authorized as aforesaid, shall forward with every prisoner a certificate of his conviction, and a copy of the proceedings held at the trial, the same to be forthcoming for reference at the place where the sentence of imprisonment may be carried into effect.—Act XVIII., 1843.

### HOUSEBREAKING.

45. The zillah and city magistrates shall be guided by the following rules, whenever individuals may be apprehended and brought before them, on a charge of having committed the offence of breaking into, or attempting to break into a dwelling-house, tent, boat, or other place of habita-

tion, by night or by day, with an intent to steal (but without open violence, such as to constitute the crime of robbery by open violence), or with the offence of breaking into, or attempting to break into any warehouse, storehouse, or other building or place used for the custody or preservation of property, either by night or by day, with an intent to steal (but without open violence); or of being present, aiding and abetting in the commission of any of the offences above specified; or although not present, of having procured or caused the perpetration of any of those offences by hire, counsel, or command; or of having in any manner confederated with the actual perpetrators of them, in pursuance of a preconcerted plan.—Reg. XII., 1818, sec. ii., cl. 1.

46. If the perpetration of any of the offences enumerated in the preceding paragraph, not amounting to the crime of robbery by open violence, shall be accompanied with murder, or with an attempt to commit murder, or with wounding, burning, corporal injury, or other aggravating act of personal violence; or if the prisoners, or any of the prisoners, concerned in the offences described in the preceding paragraph, shall appear to have been before convicted of burglary, robbery, or other heinous crime; or if the prisoners, or any of them, shall appear to be persons of notoriously bad character, or shall be charged with having committed the offence while employed in the office of watchmen, guards, or police officers, as described in Section IV., Regulation III., 1805 (paragraph 39); or if the value or amount of the property stolen shall exceed the sum of one hundred rupees; or if there exist any circumstances of aggravation, though not of the nature specified above, such as to render the prisoner deserving of a more severe punishment than the magistrates are competent to inflict; in all such cases, it shall be the duty of the magistrate to commit the whole of the prisoners who may appear from the evidence adduced to have been concerned in the offence, to take their trial before the Sessions Court at the ensuing session.—Reg. XII., 1818, sec. ii., cl. 2; Reg. VI., 1824, sec. iii.

47. In cases of conviction before the Sessions Court of individuals charged with any of the offences above specified, the session judge shall be guided by the rules contained in Section VIII., Regulation XVII., 1817, referring such cases as may come within the provisions of Clause Fourth of that section, to the Court of Nizamut Adawlut, and in all other cases not coming within the provisions of that clause, sentencing the prisoners to suffer such degree of punishment as, on a consideration of all the circumstances of the case, may appear adequate to the offence; not exceeding, however, in any instance, imprisonment with hard labour for fourteen years, and two additional years in commutation for corporal punishment, with or without banishment from the district in which the prisoner may have resided.—Reg. XII., 1818, sec. ii., cl. 3.; and Reg. II., 1834.

48. If, from the investigation held by the magistrate, there shall appear reason to believe that a prisoner apprehended and brought before him has been guilty of any of the offences described in the first clause of this section (paragraph 45), but that such offence has not been attended with any of the circumstances of aggravation specified in the second clause of this section, the magistrate shall, in addition to the evidence which may be adduced on the part of the prosecution, take the defence of the prisoners and the evidence of the witnesses who may be designated by the prisoners in support of their defence, and after a full and deliberate investigation, shall proceed, without reference to the Sessions Court, to pass sentence of acquittal or conviction.—Reg. XII., 1818, sec. ii., cl. 4.

49. If the prisoners be convicted, the magistrate is empowered to sentence them to imprisonment with hard labour for a period not exceeding two years, and one additional year in commutation of corporal punishment, and to carry such sentence into immediate execution.—Reg. XII., 1818, sec. ii., cl. 5; and Reg. II., 1834.

50. Should the prisoner be convicted of two or more distinct offences above described, as within the competence of the magistrate to punish, for neither of which he had been before brought to trial, the magistrate shall not pass sentence until he has completed his proceedings in both cases, and he is authorized to reduce the punishment, so as not to exceed in the aggregate imprisonment for the term of two years, if he shall be of opinion that such punishment is sufficient; otherwise he shall commit the prisoner to take his trial before the Sessions Court.—Reg. XII., 1818, sec. ii., cl. 4; Reg. VI., 1824, preamble, and sec. ii., cls. 1 & 2.

51. Provided that a previous conviction of petty theft, not exceeding ten rupees, when unattended with any aggravating circumstances, shall not be deemed a previous conviction of a heinous crime, such as precludes the magistrate's judicial cognizance of a charge of burglary, and requires that the prisoner be committed for trial before the Sessions Court.—Reg. VI., 1824, sec. v.

52. When a prisoner may be convicted before a Sessions Court of breaking into, or attempting to break into, a dwelling-house, tent, boat, or other place of habitation, by night or by day, with an intent to steal, but without open violence, such as to constitute the crime of robbery by open violence; or of breaking into, or attempting to break into, any warehouse, storehouse, or other building or place used for the custody and preservation of property, either by night or day, with an intent to steal, but without open violence; or of being present, aiding and abetting in the commission of any of the offences above specified, or although not present, of having procured or

caused the perpetration thereof by hire, counsel, or command, or having in any manner confederated with the perpetrators in pursuance of a preconcerted plan, whether in pursuance of the intent to commit such robbery, any property shall be carried away, or otherwise, the session judge, provided he shall concur in the futwah of the law officer convicting the offender, whether such conviction be founded on a free and voluntary confession, or on the testimony of credible witnesses, or on strong circumstantial evidence, shall pass sentence upon the prisoner as follows:—Reg. XI., 1814, sec. ii., cl. 2.

53. Any person or persons who may be convicted before the Sessions Courts of breaking, with intent to rob, into any dwelling-house, whether constructed of stone, brick, mud, bamboo, grass, or other materials, or into a tent, boat, or other place of habitation, whether such entry be effected by cutting through or under the wall, or by any other means, attended with breaking, if the offence be committed between sunset and sunrise, shall be sentenced to imprisonment in banishment during the term of fourteen years, and two years' additional imprisonment in commutation for corporal punishment.—Reg. I., 1811, sec. ii., cl. 2, and sec. iii., cl. 1; and Reg. II., 1834.

54. Any person or persons who shall be convicted of the crime above defined, committed between sunrise and sunset, shall be sentenced to imprisonment in banishment for seven years, and two years' additional imprisonment in commutation for corporal punishment.—Reg. I., 1811, sec. iii., cl. 3; and Reg. II., 1834.

55. Any person who may hereafter be convicted of the offence of breaking into any warehouse, storehouse, or other building or place used for the custody and preservation of property, either by day or by night, with the intent to rob, shall be sentenced to imprisonment for the term of seven years, and two years' imprisonment in commutation for corporal punishment, whether, in pursuance of the intent to commit such robbery, any property shall have been actually carried away or otherwise. Provided, however, that nothing contained in any part of this Regulation shall be construed to supersede the provisions contained in any Regulation regarding the punishment of persons convicted of the crime of dacoity or robbery by open violence.—Reg. I., 1811, sec. ii., cl. 3; and Reg. II., 1834.

56. Should any person in the commission, or in the attempt to commit, any of the species of the crime stated in the preceding clauses, kill another, the offender shall be adjudged to suffer death.—Reg. I., 1811, sec. iii., cl. 4.

57. But if, from any circumstances of extenuation, such as the tender age of the prisoner, or his not having been armed, or the offence not having been committed by two or more persons, the session judge shall be of opinion that the punishment stated in Section III., Regulation I., 1811, would be too severe, he is authorized to mitigate the sentences therein prescribed, under the following restrictions:—Reg. XI., 1814, sec. ii., cl. 2, latter part.

58. The sentence of imprisonment in banishment from the district during fourteen years, with two years' additional imprisonment in commutation of corporal punishment, for the offence of breaking into a house or other place of habitation, with an intent to steal, between sunset and sunrise, or the attempt to commit the said offence, may be mitigated, in cases of extenuation, to such period of imprisonment, with or without banishment, as the session judge may consider sufficient, not being less than seven years.—Reg. XI., 1814, sec. ii., cl. 3.

59. The sentence of imprisonment in banishment for seven years, with two years' additional imprisonment in commutation of corporal punishment, prescribed for the offence of breaking into a house or other place of habitation, with an intent to steal, between sunrise and sunset, as well as for the offence of breaking into a warehouse, storehouse, or other building or place used for the custody and preservation of property, with an intent to steal, either by night or by day, or the attempt to commit either of the said offences, may be mitigated, in cases of extenuation, to such period of imprisonment, with or without banishment, as the session judge may consider sufficient, not being less than three years.—Reg. XI., 1814, sec. ii., cl. 4.

60. The session judges shall, in all cases wherein they may exercise the discretionary power vested in them by the preceding clauses, record their reasons for the mitigated sentence passed by them; and if in any instance a just consideration of all the circumstances of the case shall appear to them to call for a further mitigation or remission of punishment, they shall (provided they concur with their law officers in the conviction of the prisoner) pass sentence according to the preceding clauses, and refer the trial, with a full report of their sentiments, to the Court of Nizamut Adawlut for the final sentence or order of that Court, in pursuance of Section III., Regulation XIV., 1810. —Reg. XI., 1814, sec. ii., cl. 5.

61. In all cases of burglary and theft, or of theft without burglary, whether in a house, or from the person of another, as well as in all cases of robbery, not within the provisions of the Regulations in force for the punishment of robbery by open violence, if the robbery, burglary, or theft, or an attempt to commit the same, be accompanied with an attempt to commit wilful murder, whether by wounding, burning, strangling, poisoning, drowning, throwing into a well, or by any other means, or be accompanied with wounding, burning, or corporal injury to any person or

persons, in such degree as to endanger life, the offender or offenders, who may be convicted, to the satisfaction of the Nizamut Adawlut, of having been concerned as principals or accomplices in a robbery, burglary, or theft, or in an attempt to commit the same, attended with such aggravated criminality, shall be liable to transportation for life. The trial in all such cases shall be referred by the Sessions Courts to the Court of Nizamut Adawlut; and the session judge, before whom the trial may be held, shall proceed as directed in the Regulations in force respecting prisoners who are liable to a sentence of imprisonment and transportation for life. If the session judge be of opinion that there are grounds for a mitigation of the prescribed punishment, he shall state the same for the consideration of the Nizamut Adawlut.—Reg. XVII., 1817, sec. viii., cl. 4.

62. In cases of conviction before the Sessions Courts of any of the offences specified in the preceding paragraph, wherein the robbery, burglary, or theft, or an attempt to commit the same, may not have been accompanied with an attempt to commit murder, nor with wounding, burning, or other corporal injury, in such degree as to endanger life, but may have been attended with wounding, or other corporal injury, in a less degree, the session judge, provided he concur in the conviction of the offender, shall, without reference to the Nizamut Adawlut, adjudge him to suffer such punishment as may appear adequate to the offence, not exceeding imprisonment for fourteen years in banishment from the district where the prisoner may have resided, with two years' additional imprisonment in commutation of corporal punishment.—Reg. XVII., 1817, sec. viii., cl. 5.

63. Nothing in the preceding paragraph shall be construed to authorize an enhancement of the penalties declared by the Regulations in force for burglary, or theft, when not accompanied with wounding, or other corporal injury, nor with an attempt to commit murder by strangling, or other means, as described in the fourth clause of this section.—Reg. XVII., 1817, sec. viii., cl. 6.

64. Any person or persons upon whom the instrument denominated a seend katee, used for the known purpose of nuccubzunnee, may hereafter be found, shall be detained by the magistrate in safe custody, and employed to work on the public roads until he shall give security for his future good conduct, or until the Sessions Court (before whom a list of persons so detained is required to be laid by the magistrate at each sessions of gaol delivery) shall, on revision of the proceedings held by the magistrate, direct the discharge of the prisoner on a mochulka.—Reg. I., 1811, sec. vi.

65. In cases of secret theft or larceny, without open violence, whether accompanied with burglary or simple theft from the person or house, unaccompanied with any aggravating circumstance, the sentences of the Superior Courts and the Nizamut Adawlut shall be governed by the Mahomedan Law as modified by the Regulations and by the rules respecting offenders liable to discretionary punishment. Provided, however, that the Sessions Court shall not be thereby precluded from adjusting imprisonment not exceeding seven years, with two additional years in commutation for stripes, when, in aggravated cases, such punishment for theft may appear just and proper.—Reg. LIII., 1803, sec. v.; Reg. XVII., 1817, sec. viii., cl. 7; and Reg. II., 1834, sec. ii.

66. Under the existing Regulations, the magistrates are empowered to sentence prisoners convicted before them of theft, to imprisonment for a period not exceeding six months, with corporal punishment, not exceeding thirty rattans; and in cases appearing to them to demand a more severe punishment, they are required to commit the prisoners for trial before the Sessions Court. The following rules are now enacted, for extending the powers of the magistrates in the punishment of prisoners convicted of theft, and for defining the cases which are to be cognizable respectively by the magistrates and by the Sessions Courts.—Reg. XII., 1818, sec. iii., cl. 1.

67. In all cases of theft, whether in a house, warehouse, or other place, or from the person of another (not coming within the provisions of the Regulations in force for the punishment of robbery by open violence, or of housebreaking under the provisions of Clause First, Section II., Regulation XII., 1818), if the theft, or the attempt to commit the same, shall have been accompanied with murder, or with an attempt to commit murder, or with wounding, burning, severe corporal injury, or other aggravating act of personal violence, or if the value of the property stolen shall exceed 300 rupees, it shall be the duty of the magistrate to commit the whole of the prisoners who may appear from the evidence adduced to have been concerned either as principals or accomplices in the offence, to take their trial before the Sessions Court at the ensuing session. The magistrate shall also exercise his discretion in committing for trial before the Sessions Court any prisoners charged with theft (although not attended with the aggravating circumstances above mentioned), who, from their notoriously bad character, or from their having been before convicted of a heinous offence, or from any other peculiar circumstances of the case, may appear to him deserving of a severer punishment than the magistrate is authorized to inflict under the following clauses of this section. Provided that a previous conviction of petty theft, not exceeding ten rupees,

when unattended with any aggravating circumstance, shall not be deemed a previous conviction of a heinous crime, such as precludes the magistrates judicial cognizance of a charge of theft, and requires that the prisoner be committed for trial before the Sessions Court Such persons, if convicted on trial before the Sessions Court, will be liable to the penalties prescribed for the offences in question by the several Regulations and Acts in force —Reg XII, 1818, sec iii, cl 2, Reg IV., 1820, sec iv, Reg VI., 1824, sec v

68 With exception to the cases above mentioned, the magistrates shall hear and determine, without reference to the Sessions Courts, all other cases of theft, and after having duly considered the evidence which may be adduced on the part of the prosecution and of the prisoner, shall pass sentence of acquittal or conviction —Reg XII, 1818, sec iii., cl 3

69 In cases of theft cognizable by the magistrate under the foregoing rules, if the amount or value of the property stolen shall exceed fifty rupees, or if the persons committing the theft shall have been before convicted of theft, burglary, robbery, or other heinous offence, or if the prisoner shall have committed the offence while employed in the office of watchman, guard, or police-officer, as described in Section IV, Regulation III, 1805 (paragraph 39), or be a servant of the person from whom the property may have been stolen, or a servant employed in the house in which the theft may have been committed, as well as in all cases of cattle-stealing, the magistrate shall be empowered, on proof of the guilt of the prisoner, to sentence him to imprisonment, with hard labour, for such period as may appear proper, not exceeding two years, and one year's additional imprisonment in commutation for corporal punishment —Reg XII, 1818, sec iii, cl 4, and Reg II, 1834

70 In other cases of theft, not included in the foregoing provisions, the magistrate shall either refer the case for decision to his assistant, under the powers vested in the assistant to the magistrate by the Regulations in force, or shall proceed to investigate them himself and to pass sentence on the prisoners under the powers vested in him by Section XIX, Regulation IX, 1807 —Reg XII, 1818, sec iii, cl 5

71 If any police-officer, or any guard, or watchman bound to assist the officers of police, shall be convicted of larceny or theft, though without any act of open violence, or of connivance at the perpetration of such crime, he shall be liable to suffer such aggravation of punishment as the Court shall deem adequate to his offence, if by the Sessions Court, such punishment not to exceed seven years' imprisonment, with hard labour, and two years' additional labour in commutation for corporal punishment, or if the case be referred to the Nizamut Adawlut, such punishment, short of capital, as that Court shall consider adequate —Reg III, 1805, sec vi

RECEIVING STOLEN GOODS

72 Prisoners who shall appear to the magistrate to have committed the offence of buying or receiving stolen property, of whatever description, shall be committed by him for trial before the Sessions Court, if the person charged shall have known, at the time of his purchasing or receiving the same, that such property had been obtained in the perpetration of robbery by open violence, or of theft accompanied with any of the following aggravating circumstances, namely, murder, or the attempt to commit murder, or with wounding, burning, or any other act of corporal injury or personal violence, or if the stolen property exceed 300 rupees in value, or if the persons charged had been before convicted of the offence of buying or receiving stolen property, or of burglary, robbery, theft, or other heinous crime, or was an habitual and professional receiver of stolen goods, or a person of notoriously bad character, or if he shall be charged with having committed the offence while employed in the office of watchman, guard, or police-officer, or if the person charged appear to the magistrate, from any other previous circumstances of the case, deserving of a severer punishment than the magistrate is authorized to inflict. All such persons, if convicted before the Sessions Court, shall be sentenced to such period of imprisonment as may appear proper, according to the circumstances of the case, in no instance exceeding fourteen years, and two additional years in commutation of corporal punishment Provided that a previous conviction of petty theft, not exceeding ten rupees, when unattended with any aggravating circumstance, shall not be deemed a previous conviction of a heinous crime, such as precludes the magistrate from taking judicial cognizance of a charge of buying or receiving stolen goods, and requires that the prisoner be committed for trial before the Sessions Court —Reg XII, 1818, sec. iv., cls 2 & 3, Reg IV, 1820, sec iv, Reg. VI, 1824, secs iv & v

73 With exception to the cases above mentioned, the magistrate shall hear and determine, without reference to the Sessions Courts, all other cases in which individuals may be charged with the offence of buying or receiving stolen property of whatever description, knowing it at the time to have been stolen, or with the offence of having in their possession property obtained by theft or robbery, and knowing at a period of time subsequently to its first coming into their possession,

that such property had been so obtained, notwithstanding which they may have kept the stolen property in their possession without restoring it to the owner, or giving information to the local police-officer or magistrate. In such cases the magistrate, after having duly considered the evidence in support of the prosecution, the defence of the prisoners, and the evidence of the witnesses designated by the prisoners, shall proceed to pass sentence of conviction or acquittal: if the prisoners be convicted, the magistrate is empowered to sentence them to imprisonment with hard labour for a period not exceeding in any case two years, and to one year's additional imprisonment in commutation for corporal punishment.—Reg. XII., 1818, sec. iv., cl. 4.

74. Persons charged with the offences specified in the preceding clauses of this section may be brought to trial and sentenced to punishment, although the actual perpetrators of the theft or robbery may not have been convicted; provided, however, that the fact of the theft or robbery having been committed be established, and it be proved that the purchaser or receiver knew that the property in question had been obtained by theft or robbery.—Reg. XII., 1818, sec. iv., cl. 5.

75. Any person accused of unlawfully and knowingly receiving or buying property stolen or plundered by dacoits, or by thuggee, or by any wandering gang of persons associated for the purposes of theft or robbery, though not being a gang of thugs or dacoits, may be committed by any magistrate within the territories of the East-India Company, and may be tried by any Court competent to try him, if his offence had been committed within the zillah where the Court sits.—Act XVIII., 1839; Act XXIV., 1843, sec. ii.; Act XI., 1848, sec. ii.

76. Every person who receives any chattel, money, valuable security, or other property whatsoever, knowing the same to have been feloniously or unlawfully stolen, taken, obtained, or converted, whether charged as an accessory after the fact to the felony, or with a substantive felony, or with a misdemeanour only, may be dealt with, indicted, tried, and punished in any place in which he shall have, or shall have had, any such property in his possession, or in any place in which the party guilty of the principal felony or misdemeanour may by law be tried, or in the place where he actually received such property.—Act XVI., 1851, sec. i.

### RULES APPLICABLE TO ALL CASES OF ROBBERY, THEFT, RECEIVING STOLEN GOODS, AND OTHER WRONGFUL APPROPRIATION OF PROPERTY.

77. All criminal Courts may add to the punishment competent to them to inflict upon persons convicted before them of robbery, theft, embezzlement, knowingly receiving stolen goods, cheating, or other wrongful appropriation of property, or of being accessory or privy to any such offence, the punishment of fine, not exceeding the loss appearing to be caused to the several persons who have suffered by such wrong: and may pay and distribute the proceeds of the said fine, or any part thereof, to or for the benefit of the said several persons, according to the discretion of the Court.—Act XVI., 1850, sec. i.

78. Payment of every such fine may be enforced by distress and sale, under the order of the Court, of the goods of the offender.—Act XVI., 1850, sec. ii.

### PERJURY, FORGERY, DEBASING THE COIN, &c.

#### *Definitions.*

79. The crime of wilful perjury is declared to be giving, intentionally and deliberately, before a Court of Judicature, magistrate, or any public officer authorized to take the same, a false deposition upon oath or under a solemn declaration, relative to some judicial proceeding, civil or criminal, upon a point material to the issue thereof, or though not relating to any judicial proceeding, on a point material to the case in which the depositions may have been taken.—Reg. II., 1807, sec. iv., cl. 1; Reg. XVII., 1817, sec. xiii., cl. 1.

80. Subornation of perjury is declared to be the procuring or causing another person to commit the offence above described as wilful perjury.—Reg. II., 1807, sec. iv., cl. 2; Reg. XVII., 1817, sec. xiii., cl. 2.

81. The term forgery is meant to include all fraudulent and injurious fabrications or alterations of written deeds, or of written or printed papers, of whatever descriptions; as well as all counterfeit seals or signatures thereto, and the illicit imitation of any public stamp, or stamped paper, established by Government. Persons convicted of procuring or causing any such forgery will be liable to the same punishment as those convicted of having actually committed the forgery at the instigation of others.—Reg. II., 1807, sec. iv., cl. 3.

82. The offence of fraudulently issuing and publishing as true, or otherwise fraudulently giving effect, or attempting to give effect, to fabricated deeds and papers, knowing the same to be false and

fabricated, or the offence of using, issuing, selling or otherwise disposing of, or attempting to dispose of, counterfeit stamped paper, bearing the imitation of a public stamp, knowing the same to be counterfeit, or the offence of paying, or tendering in payment, counterfeited coin, bank notes, promissory notes, or other securities for money, knowing the same to be counterfeit, are declared punishable under the provisions hereinafter set forth.—Reg. XVII., 1817, sec. x., cl. 1.

83. The offences of clipping, filing, drilling, defacing or debasing the gold or silver coin of the British Governments in India, or any coin usually received as money within the British possessions in India, are already made cognizable by the Criminal Courts, and declared punishable as the law may direct, and are declared punishable under the provisions of Regulation II., 1807.—Reg. XXXV., 1793, sec. xii.; and Reg. XVII., 1817, sec. x., cl. 3.

*Committal and Trial.*

84. If a witness, or any person, shall be guilty of wilful and corrupt perjury in any cause or matter depending in court, the judge is immediately to commit the offender to close custody, to take his trial before the Sessions Court.—Reg IV., 1793, sec. xiv.

85. The zillah and city magistrates shall not receive any charges of perjury which may be preferred by parties in civil suits, either against their own witnesses, or against the witnesses of the adverse party, or charges of subornation of perjury against the adverse parties in such suits; and all individuals whose attendance is required in the civil courts, either as plaintiffs, defendants, or witnesses, are declared not liable to any prosecution of this description unless committed to take their trial by the zillah or city judge.—Reg. III., 1801, sec. ii.

86. Persons charged with the crime of perjury, subornation of perjury, or forgery, and appearing to the Civil or Criminal Courts by whom they may be ordered to be brought to trial before the Sessions Court to have been guilty of the charge, shall not be admitted to bail (notwithstanding anything declared to the contrary in any existing Regulation), unless specially authorized by the Court under whose directions they are committed for trial. But nothing herein contained shall be construed to preclude the magistrate from admitting to bail persons committed by him for trial on charges preferred originally before him, in cases cognizable by him under the Regulations, without any order from a Civil or Criminal Court for the commitment of such persons for trial before the Sessions Court.—Reg. II., 1807, sec. v.

87. Whenever a witness giving evidence before a Sessions Court may be considered by the session judge to be guilty of wilful perjury, or whenever a person attending a Sessions Court may be considered by the judge of that Court to be guilty of subornation of perjury, or of forgery, in any trial or matter depending before the Court, and the whole of the witnesses required for the proof of the charge and for the defence of the accused may be also in attendance, it shall be competent to the session judge to direct the zillah or city magistrates to commit the person so charged for immediate trial before the Sessions Court. Provided that nothing in this section shall be construed to authorize the conviction or punishment of any person charged with the crimes specified, until he shall have been regularly put upon his trial, or until any material evidence which he may have to offer in his defence shall have been received and duly considered.—Reg. II., 1807, sec. vi.

88. The above rules (with this qualification, that the zillah or city judge may commit to prison or admit to bail, as he shall think proper, under the discretion given by Section V., Regulation II., 1807), shall be considered applicable to all allegations of perjury, or subornation of perjury, against parties or witnesses in any civil suit, or any civil proceedings whatever, before the judge of a Zillah or City Court; or before a Principal Sudder Ameen, a Sudder Ameen, or Moonsiff, or an arbitrator or arbitrators appointed to investigate such suits: or an officer employed by a Zillah or City Civil Court in any local or other inquiry, or in the execution of any civil process. In all such cases, the proceedings on which the charge of perjury or subornation of perjury may be grounded, if not held before the zillah or city judge in the first instance, shall be referred to him by the officer before whom the proceedings may have been held, with the sentiments of such officer upon the case; and if the judge be of opinion that there are sufficient grounds for bringing the accused party to trial before the Sessions Court on a charge of perjury, or subornation of perjury, he shall record his opinion to that effect; and at the same time direct whether the accused shall be admitted to bail or kept in custody. An authenticated copy of the order passed by him, with the whole of the original papers relative to the case, shall then be transferred to the cutcherry of the magistrate, that the order of the judge may be carried into effect, and the case brought before the Sessions Court, in the same manner as if the charge had been instituted and proceeded upon in the Court of the magistrate.—Reg. XVII., 1817, sec. xiv., cl. 2; and Act I., 1848, sec. iii.

89. If the judges of either of the Courts of Sudder Dewanny Adawlut, or any single judge of those Courts, in cases within the competency of a single judge, shall be of opinion that there are sufficient grounds, on any civil proceeding before them, for bringing a party or witness to trial on a charge of perjury, or subornation of perjury, they shall record their sentiments to that effect;

and at the same time direct whether the party accused shall be admitted to bail or kept in custody: an authenticated copy of the order so passed, with the whole of the original papers relative to the case, shall then be transmitted to the proper zillah or city magistrate, for the purpose of being proceeded upon as stated in the preceding clause.—Reg. XVII., 1817, sec. xiv., cl. 3.

90. The restrictions against prosecutions for perjury and subornation of perjury of witnesses and parties in the Civil Courts, unless the officers presiding in these Courts shall be of opinion that there are grounds for such prosecutions, are extended to all charges of perjury, or subornation of perjury, against witnesses and prosecutors in the Criminal Courts, or before any public officer authorized to hold inquiries respecting offences of a criminal nature. Provision is already made by Section VI., Regulation II., 1807, (paragraph 87), for such cases, when persons attending the sitting of a Sessions Court may appear to the judge of that Court to have been guilty of perjury, or subornation of perjury. The judges of the Sessions Courts, and the judges of the Court of Nizamut Adawlut, or a single judge thereof, in cases within the competency of a single judge, are further declared empowered to direct the proper zillah or city magistrate to commit to custody, or hold to bail, and to bring to trial before the Sessions Court any person who, from proceedings before the above Courts, may appear to have been guilty of the crime of perjury, or subornation of perjury; and the zillah and city magistrates themselves are vested by the Regulations with full authority to commit, or hold to bail, for trial before the Sessions Court, all persons who, on their own proceedings, or those of their assistants, may be considered guilty of either of the crimes above mentioned. The magistrates of the several zillahs and cities are therefore prohibited from receiving and acting upon any charges of perjury, or subornation of perjury, alleged to have been committed in the course of any trial or inquiry of a criminal nature, excepting such as may come before them in the manner provided for by this section.—Reg. XVII., 1817, sec. xiv., cl. 4.

91. The zillah and city magistrates are further restricted from receiving and acting upon charges of perjury, or subornation of perjury, alleged to have been committed before a collector or other public officer, unless such officer shall transmit the proceedings held before him, with his opinion that there are grounds for believing such charge to be well founded. In that case, and if the magistrate, on inspection of the proceedings, or after making such further inquiry as he may deem necessary, shall be of opinion that there are grounds for bringing the party accused to trial before the Sessions Court, he shall pass an order to that effect; and shall at the same time direct whether the accused shall be held to bail, or kept in custody till the session of the Sessions Court. —Reg. XVII., 1817, sec. xiv., cl. 5.

92. In all cases provided for by this section, if there be no private prosecutor to whom the magistrate may judge it proper to leave the prosecution of the case before the Sessions Court, he shall appoint the vakeel of Government, or some other qualified person, to conduct the prosecution before the Sessions Court, and shall furnish him with the requisite information and instructions for that purpose.—Reg. XVII., 1817, sec. xiv. cl. 6.

93. Within the territories subject to the presidency of Fort William in Bengal, except the local limits of the Courts established by her Majesty's charter, the magistrates of the several zillahs and cities shall not receive any charge of forgery, or of procuring or causing forgery, or of fraudulently issuing and publishing as true, or otherwise fraudulently giving effect to, or attempting to give effect to false and fabricated deeds and papers, knowing the same to be false and fabricated, which may be preferred by parties to civil or criminal cases, in respect to deeds and papers offered in evidence in such cases, against the adverse parties to such cases, or other persons, except as provided in the next following paragraph.—Act I., 1848, sec. i.

94. In cases pending before any civil or criminal Court (except the Court of the magistrate, or of any officer exercising the committing powers of a magistrate), in which there may appear to the Court sufficient grounds for sending for investigation to the magistrate a charge of any of the offences specified in the foregoing paragraph, the Court shall send the party or parties accused in custody to the magistrate, together with the evidence and documents relevant to the charge, and shall take a recognizance from each of the witnesses, who have given such evidence to appear before the magistrate, who shall thereupon receive such charge and proceed with it in the usual course. Provided always, that nothing herein contained shall be construed to affect the powers vested in session judges in cases of forgery, by Section VI., Regulation II., of 1807, (paragraph 87). —Act I., 1848, sec. ii.

95. It shall be competent to the session judges to try persons committed by themselves as civil judges, under the provisions of Clause Second, Section XIV., Regulation XVII., 1817, (paragraph 87), for perjury, or subornation of perjury, any law to the contrary notwithstanding.—Act I., 1848, sec. iv.

96. For the purposes of this Act, the expression "Civil Courts" shall be held to include all revenue officers acting judicially.—Act I., 1848, sec. v.

*Penalties.*

97. If any person amenable to the jurisdiction of a Sessions Court, shall be convicted before that Court, whether by his free and voluntary confession, or by the testimony of credible witnesses, or by strong circumstantial evidence, of the crime of wilful perjury, or of subornation of perjury, or of forgery, as defined in the Regulations, and shall in consequence, by the futwah of the Mahomedan law officer of the Sessions Court, be declared liable to discretionary punishment (tazeer, acoobut, or seeasut), the session judge, before whom the trial may be held, provided he concur in the conviction of the prisoner, shall sentence the offender to be imprisoned, in banishment from the district, for a period of seven years, with two additional years in commutation for corporal punishment, or for the term of fourteen years, if the prisoner be convicted of having forged, or procured to be forged, any counterfeit coin in imitation of any of the gold, silver, or copper coins of the British Governments in India, or of any coin usually received as money in the British possessions in India, or of having forged, or procured to be forged, any counterfeit stamp, or stamped paper, in imitation of any public stamp established by the British Governments in India, or any counterfeit note, or other security for money, in imitation of any of the public securities of the British Governments in India, or of the bank-notes issued by any public bank in the British possessions in India, unless the session judge, on consideration of all the circumstances of the case, shall be of opinion, that any part of the prescribed punishment is too severe; in which case he is authorized to mitigate the sentence to imprisonment, for any period not less than seven years, in the above-mentioned cases of forgery of counterfeit coin, public stamps, securities, or bank notes, and procuration of such forgery, and to imprisonment, for any period not less than three years, in all other cases within the provisions of Regulation II., 1807, and Regulation XVII., 1817. In cases of reference to the Nizamut Adawlut, that Court shall, if the prisoner be convicted, sentence him to any punishment deemed proper, not exceeding that above specified.—Reg. II., 1807, sec. iii.; Reg. XVII., 1817, sec. ix., cl. 2.; Reg. VI., 1832, sec. vi.; and Reg. II., 1834.

98. If in any instance the session judge shall be of opinion that a further mitigation or remission of punishment is necessary, he shall, provided he concur in the conviction of the prisoner, pass sentence on the prisoner, and refer the trial, with his sentiments at large, for the final sentence or order of the Court of Nizamut Adawlut.—Reg. XVII., 1817, sec. ix., cl. 3.

99. If any person shall be convicted before a Sessions Court, or the Court of Nizamut Adawlut, of any of the offences specified in Clause 1, Section x., Regulation XVII., 1817, (paragraph 82), he shall be sentenced to imprisonment for such period, not exceeding seven years, as the session judge may deem adequate to the nature and circumstances of the case. In every instance of a repetition of the offence, after a previous conviction and discharge, the session judge may further, at his discretion, sentence the offender to two years' imprisonment in commutation for corporal punishment. If a person twice convicted and discharged, be again found guilty of any of the offences specified in the preceding clause above referred to, (paragraph 82), and the session judge shall be of opinion that he ought to be imprisoned for a longer period than seven years, he shall refer the trial, with his sentiments, for the sentence of the Court of Nizamut Adawlut.—Reg. XVII., 1817, sec. x., cl. 2., and Reg. II., 1834.

100. If any person, subject to the jurisdiction of a zillah or city magistrate, shall be convicted of having in his or her possession, without lawful or satisfactory excuse, any counterfeited coin, or stamped paper, bearing an imitation of any current coin, or public stamp, and shall not show good and sufficient cause for having such counterfeit coin, or stamped paper, in his or her possession, the persons so convicted shall be sentenced by the magistrate to pay a fine equal to four times the nominal value of such counterfeit coin, or stamped paper, in his or her possession, one moiety of which fine shall, on receipt of it, be given to any informer or informers who may have given information of the offence, and established the truth of it. In the event of such fine not being paid, the person convicted shall be confined for such period as the magistrate may direct, not exceeding six months. The counterfeit coin or stamped paper shall also in every instance be forwarded to the mint master or superintendent of stamps respectively.—Reg. XVII., 1817, sec. xi.

NOTE.—Clauses for the punishment of forgery and perjury will be found in the following enactments in the revenue division:—

FORGERY.

| | | |
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| 1793. | XIX. xvii., xviii. | Forgery of la-khiraj grants. |
| ,, | XXXVII. xiii. | Falsifying registry of wills and deeds. |
| ,, | XXXVI. xii. | |
| 1817. | XII. xxxiii. | Falsifying putwaries' accounts. |
| 1829. | X., XIII. xviii., xx. | Forgery by putwaries. |
| 1837. | XVII. xxxvi. | ,, of documents in the postage department. |

PERJURY.

| | | |
|---|---|---|
| 1801. | I. viii. | In respect of landholders' accounts. |
| 1816. | XIII. lxxxviii. | ,, the Abkarry department. |
| 1819. | II. xix | ,, La-khiraj claims. |
| ,, | X. cvi. | ,, proceedings in the salt department. |
| 1824. | I. iv. 8. | ,, lands required for public purposes. |
| 1841. | VI. ix. | ,, the importation of rum. |

SUTTEE.

101. The practice of suttee, or burning, or burying alive the widows of Hindoos, is declared illegal, and punishable by the criminal courts.—Reg. XVII., 1829, sec. ii.

102. All zemindars, talookdars, or other proprietors of land, whether malguzarry or la-khiraj; all sudder farmers and under-renters of land of every description; all dependent talookdars; all naibs and other local agents; all native officers employed in the collection of the revenue and rents of lands on the part of Government, or the Court of Wards; and all munduls or other head men of villages, are declared especially accountable for the immediate communication to the officers of the nearest police station of any intended sacrifice of the nature described in the foregoing paragraph; and any zemindar, or other description of persons above noticed, to whom such responsibility is declared to attach, who may be convicted of wilfully neglecting or delaying to furnish the information above required, shall be liable to be fined by the magistrate or joint magistrate in any sum not exceeding two hundred rupees, and in default of payment, to be confined for any period of imprisonment not exceeding six months.—Reg. XVII., 1829, sec. iii., cl. 1.

103. Immediately on receiving intelligence that the sacrifice declared illegal by this Regulation is likely to occur, the police darogah shall either repair in person to the spot, or depute his mohurrir or jemadar, accompanied by one or more burkundauzes of the Hindoo religion, and it shall be the duty of the police officers to announce to the persons assembled for the performance of the ceremony, that it is illegal, and to endeavour to prevail on them to disperse, explaining to them that, in the event of their persisting in it, they will involve themselves in a crime, and become subject to punishment by the Criminal Courts. Should the parties assembled proceed in defiance of these remonstrances to carry the ceremony into effect, it shall be the duty of the police officers to use all lawful means in their power to prevent the sacrifice from taking place, and to apprehend the principal person aiding and abetting in the performance of it; and in the event of the police officers being unable to apprehend them, they shall endeavour to ascertain their names and places of abode, and shall immediately communicate the whole of the particulars to the magistrate or joint magistrate for his orders.—Reg. XVII., 1829, sec. iii. cl. 2.

104. Should intelligence of a sacrifice declared illegal by this Regulation, not reach the police officers until after it shall have actually taken place, or should the sacrifice have been carried into effect before their arrival at the spot, they will nevertheless institute a full inquiry into the circumstances of the case, in like manner as on all other occasions of unnatural death, and report them for the information and orders of the magistrate or joint magistrate to whom they may be subordinate. —Reg. XVII., 1829, sec. iii., cl. 3.

105. On the receipt of reports of any act or intended act of suttee, or burning, or burying alive the widows of Hindoos, the magistrate or joint magistrate of the jurisdiction shall inquire into the circumstances of the case, and shall adopt the necessary measures for bringing the parties concerned in promoting it to trial before the Sessions Court.—Reg. XVII., 1829, sec. iv., cl. 1.

106. After the promulgation of this Regulation, all persons convicted of aiding and abetting in the sacrifice of a Hindoo widow, by burning or burying her alive, whether the sacrifice be voluntary on her part or not, shall be deemed guilty of culpable homicide, and shall be liable to punishment by fine or by imprisonment, or by both fine and imprisonment, at the discretion of the Sessions Court, according to the nature and circumstances of the case and the degree of guilt established against the offender; nor shall it be held to be any plea of justification that he or she was desired by the party sacrificed to assist in putting her to death.—Reg. XVII., 1829, sec. iv., cl. 2.

107. Persons committed to take their trial before the Sessions Court for the offence above mentioned, shall be admitted to bail or not at the discretion of the magistrate or joint magistrate, subject to the general rules in force in regard to the admission of bail.—Reg. XVII., 1829, sec. iv., cl. 3.

108. Nothing contained in this Regulation shall be construed to preclude the Court of Nizamut Adawlut from passing sentence of death on persons convicted of using violence or compulsion, or of having assisted in burning or burying alive a Hindoo widow, while labouring under a state of intoxication, or stupefaction, or other cause impeding the exercise of her free will, when, from the aggravated nature of the offence proved against the prisoner, the Court may see no circumstances to render him or her a proper object of mercy.—Reg. XVII., 1829, sec. v.

DHURNA.

109. The offence denominated dhurna implies, in its received acceptation, the practice of illegal duress by individuals, for the extortion of money, or for the recovery of debts without

authority from the civil magistrate; and also, without such authority, for retaining or recovering the possession of land, or for carrying any other point of real, imaginary, or pretended interest or right.—Reg. VII., 1820, sec. i.

110. On a complaint in writing being presented to a magistrate against any Brahmin or Brahmins, or against any other person or persons of whatever description, for sitting dhurna, the magistrate, upon oath or affirmation being made to the truth of the information, shall issue a warrant or summons (as the case may require), under his seal and signature, for the apprehension or appearance before him, of the person or persons thus complained against. On the accused being brought before the magistrate, he shall inquire into the circumstances of the charge, and examine the accused and the complainant; and also such other persons (whose depositions are to be taken on oath or affirmation) as are stated to have any knowledge of the misdemeanor alleged, and commit their respective depositions to writing; and after this inquiry, if it shall appear to the magistrate that the misdemeanor charged was never committed, or that there is no ground to believe the accused to have been concerned in committing it, the magistrate shall cause him (or them) to be forthwith discharged, recording his reasons for the same. On the contrary, if it shall appear to the magistrate that the misdemeanor was actually committed, and that there are grounds for believing the accused to have been concerned in the commission of it, the magistrate shall (except in the cases mentioned in Section VII., paragraph 114), cause the accused to be committed to prison, or held to bail (according as in his discretion he shall judge proper) for trial at the next session of the Sessions Court; and shall bind over the complainant to appear and carry on the prosecution, and the witnesses to attend and give their evidence.—Reg. VII., 1820, sec. iii.

111. The trial of persons charged with dhurna shall take place before the Sessions Court, in the same mode as is prescribed for other trials by the existing Regulations; and in lieu of the bebusta taken from the pundit of the Provincial Court, the Mahomedan law officer of the Sessions Court shall write his futwah, declaring whether the offence charged is established or not, against the accused.—Reg. VII., 1820, sec. iv.

112. On conviction of the offence of dhurna before a Sessions Court, the penalties adjudicable shall be as follow: namely, imprisonment in the civil jail for a term not exceeding one year, and fine not exceeding one thousand rupees; commutable, if not paid, to further imprisonment, for a term not exceeding one year.—Reg. VII., 1820, sec. v.

113. Trials held before a Sessions Court in cases of dhurna shall be referrible to the Nizamut Adawlut, or not, according to the rules applicable in other trials.—Reg. VII., 1820, sec. vi.

114. It shall be competent to the magistrates, in charges for the offence of dhurna, which they may be of opinion, from the circumstances, do not require commitment to the Sessions Court, to hear the evidence against and for the accused; and if they consider the accused to be convicted, to pass sentence of fine not exceeding two hundred rupees; commutable, if not paid, to imprisonment in the civil jail for a period not exceeding six months.—Reg. VII., 1820, sec. vii.

## OFFENCES AGAINST THE STATE.

### *Trial of State Offenders.*

115. It shall be competent to the ordinary tribunals to try charges of treason, rebellion, or other crime against the state.—Act V., 1841, sec. i.

116. It shall be competent for the Government of any presidency to issue a commission for the trial of any offences of treason, rebellion, or crime against the state, by one or more judges, together with such law officers as shall be required, or without any such officer, according as it may be deemed expedient.—Act V., 1841, sec. ii.

117. The Courts convened under such commissions are to try the prisoners brought before them in the same manner as in trials before the ordinary Courts; and shall exercise all powers and authorities vested in such Courts, except that their sentence, whether of acquittal or punishment, shall in every instance be reported with their proceedings to the Nizamut Adawlut, previous to carrying the same into execution; and they are to be guided as to the place where they are to assemble, the persons to be tried by them, and all other particulars not provided by any Regulation of the respective presidencies, or by any Act of the Governor-General of India in Council, by the special orders which they may receive from the Executive Government, or from the Nizamut Adawlut.—Act V., 1841, sec. iii.

118. In case of the death or of the absence, from indisposition or other cause, of any of the judges or law officers of the Courts which may be appointed to try offenders under this Regulation, the remaining judge or judges, or law officer or officers, shall be competent to form a Court, and proceed with the trial or trials, until provision can be made by the Government for supplying the place of such judge or judges, or law officer or officers, if any such provision shall be deemed

necessary; or if no such provision be made, the powers and proceedings of the said Courts shall not be affected by the death or absence of such judge or judges, or law officer or officers.—Act V., 1841, sec. iv.

119. The Nizamut Adawlut, on the receipt of any trials referred to them under this Act, are to proceed thereupon according to the rules in force with respect to other trials referred to them; except that they are in every instance to report their sentences to the executive Government; and are to wait the orders of Government for the period of three calendar months before they direct their sentence to be carried into execution.—Act V., 1841, sec. v.

120. The magistrates of the several zillahs and cities, where any person or persons shall be charged with the crimes mentioned in this Act, shall give immediate notice thereof to the Government of the presidency to which their several districts or cities belong, and shall pay immediate and strict attention to all orders which may be transmitted to them by their respective Governments for the apprehension of persons charged as aforesaid, or for making any inquiry respecting such persons, or for committing them to take their trials before the ordinary Courts, or before the special Courts described in this Act.—Act V., 1841, sec. vi.

*Proclamation of martial law.*

121. The Governor-General in Council is empowered to suspend, or to direct any public authority or officer to order the suspension of, wholly or partially, the functions of the ordinary Criminal Courts of Judicature, within any zillah, district, city, or other place, within any part of the British territories, subject to the government of the presidency of Fort William, and to establish martial law therein, for any period of time while the British Government in India shall be engaged in war with any native or other power, as well as during the existence of open rebellion against the authority of the Government, in any part of the territories aforesaid; and also to direct the immediate trial, by courts martial, of all persons owing allegiance to the British Government, either in consequence of their having been born, or of their being residents within its territories and under its protection, who shall be taken in arms in open hostility to the British Government, or in the act of opposing by force of arms the authority of the same, or in the actual commission of any overt act of rebellion against the state, or in the act of openly aiding and abetting the enemies of the British Government within any part of the said territories.—Reg. X., 1804, sec. ii.

122. Any person born or residing under the protection of the British Government within the territories aforesaid, and consequently owing allegiance to the said Government, who, in violation of the obligations of such allegiance, shall be guilty of any of the crimes specified in the preceding paragraph, and who shall be convicted thereof by the sentence of a court martial, during the suspension of the functions of the ordinary Criminal Courts of Judicature and the establishment of the martial law, shall be liable to the immediate punishment of death, and shall suffer the same accordingly, by being hung by the neck till he is dead. All persons who shall, in such cases, be adjudged by a court martial to be guilty of any of the crimes specified in this Regulation, shall also forfeit to the British Government all property and effects, real and personal, which they shall have possessed within its territories at the time when the crime of which they may be convicted shall have been committed.—Reg. X., 1804, sec. iii.

123. The Governor-General in Council shall not be precluded by this Regulation from causing persons charged with any of the offences described in the present Regulation to be brought to trial, at any time, before the ordinary Courts of Judicature, or before any special Court appointed for the trial of such offences, under Act V., 1841, instead of causing such persons to be tried by courts martial, in any cases wherein the latter mode of trial shall not appear to be indispensably necessary. —Reg. X., 1804, sec. iv.

*Proceedings against persons endangering public safety.*

124. Whenever reasons of state embracing the due maintenance of the alliances formed by the British Government with foreign powers, the preservation of tranquillity in the territories of native princes, entitled to its protection, and the security of the British dominions from foreign hostility and from internal commotion, may seem to the Governor-General in Council to require that an individual should be placed under personal restraint, without any immediate view to ulterior proceedings of a judicial nature, a warrant of commitment under the authority of the Governor-General in Council, and under the hand of the chief secretary, or one of the secretaries to Government, shall be issued to the officer in whose custody such person is to be placed.—Reg III., 1818, secs. i. & ii., cl. 1.

125. The warrant of commitment shall be in the following form :—

To the [here insert the officer's designation.]

"Whereas the Governor-General in Council, for good and sufficient reasons, has seen fit to determine that [here insert the state prisoner's name] shall be placed under personal restraint at [here insert the name of the place], you are hereby required and commanded, in pursuance of that determination, to receive the person above named into your custody, and to deal with him in conformity to the orders of the Governor-General in Council, and the provisions of Regulation III., of 1818.

"Fort William, the

"By order of the Governor-General in Council,

"A. B., Chief Sec. to Gov."

—Reg. III., 1818, sec. ii., cl. 2.

126. The warrant of commitment may be directed to the sheriff of the gaol of any of the Supreme Courts of Judicature established by royal charter in the said territories, or to the commandant of any fortress, or to the officer in charge of any gaol or other place in which it is deemed expedient that such state prisoner be confined, in any part of the said territories; and such warrant shall be sufficient authority for the detention of such state prisoner in the fortress, gaol, or other place mentioned in the warrant; and the following rules are declared applicable to every sheriff, commandant, or officer having any state prisoner in custody.—Act. XXXIV., 1850, secs. i. & ii.

127. Every officer in whose custody any state prisoner may be placed, shall, on the 1st of January and 1st of July of each year, submit a report to the Governor-General in Council, through the secretary to Government in the political department, on the conduct, the health, and the comfort of such state prisoner, in order that the Governor-General in Council may determine whether the orders for his detention shall continue in force or shall be modified.—Reg. III., 1818, sec. iii.

128. When any state prisoner is in the custody of a zillah or city magistrate, the session judges are to visit such state prisoner, and they are to issue any orders concerning the treatment of the state prisoner which may appear to them advisable, provided they be not inconsistent with the orders of the Governor-General in Council issued on that head.—Reg. III., 1818, sec. iv., cl. 1.

129. When any state prisoner is placed in the custody of any officer not being a zillah or city magistrate, the Governor-General in Council will instruct the magistrate, or the session judge, or any other officer, not being the person in whose custody the prisoner may be placed, to visit such prisoner at stated periods, and to submit a report to Government regarding the health and treatment of such prisoner.—Reg. III., 1818, sec. iv., cl. 2.

130. The officer in whose custody any state prisoner may be placed, is to forward, with such observations as may appear necessary, every representation which such state prisoner may from time to time be desirous of submitting to the Governor-General in Council.—Reg. III., 1818, sec. v.

131. Every officer in whose custody any state prisoner may be placed, shall, as soon after taking such prisoner into his custody as may be practicable, report to the Governor-General in Council, whether the degree of confinement to which he may be subjected appears liable to injure his health, and whether the allowance fixed for his support be adequate to the supply of his own wants and those of his family, according to their rank in life.—Reg. III., 1818, sec. vi.

132. Every officer, in whose custody any state prisoner may be placed, shall take care that the allowance fixed for the support of such state prisoner is duly appropriated to that object.—Reg. III., 1818, sec. vii.

133. The provisions contained in the preceding paragraphs 127 to 132 are declared to be applicable to all persons who are now confined as state prisoners under the authority of Government, within the territories subject to the presidency of Fort William.—Reg. III., 1818, sec. viii.

134. Whenever the Governor-General in Council, for the reasons before declared, shall judge it necessary to attach the estates or lands of any zemindar, jageerdar, talookdar, or other person, without any previous decision of a court of justice, or other judicial proceeding, the grounds on which the resolution of Government may have been adopted, and such other information connected with the case as may appear essential, shall be communicated, under the hand of one of the secretaries to Government, to the judge and magistrate of the district in which the lands or estates may be situated, to the Sessions Court, and to the Sudder Dewanny Adawlut and Nizamut Adawlut.—Reg. III., 1818, sec. ix.

135. The lands or estates which may be so temporarily attached shall be held under the management of the officers of Government in the revenue department, and the collections shall be made and adjudged on the same principles as those of other estates held under khas management —Reg. III., 1818, sec. x., cl. 1.

136. Such lands or estates shall not be liable to be sold in execution of decrees of the Civil Courts, or for the realization of fines or otherwise, during the period in which they may be so held under attachment.—Reg. III., 1818, sec. x., cl. 2.

## SPECIFIC OFFENCES.—OFFENCES AGAINST THE STATE.

137. In the cases mentioned in the preceding paragraph, the Government will make such arrangement as may be fair and equitable for the satisfaction of the decrees of the Civil Courts.—Reg. III., 1818, sec. x., cl. 3.

138. Whenever the Governor-General in Council shall be of opinion that the circumstances which rendered the attachment of such estate necessary have ceased to operate, and that the management of the estate can be committed to the hands of the proprietor without public hazard or inconvenience, the revenue authorities will be directed to release the estate from attachment, to adjust the accounts of the collections during the period in which they may have been superintended by the officers of Government, and to pay over to the proprietor the profits from the estate which may have accumulated during the attachment.—Reg. III., 1818, sec. xi.

139. Any state prisoner now confined under any such warrant within the jurisdiction of any of the said Supreme Courts, under the warrant of the Governor-General in Council, shall be deemed to have been lawfully committed thereunto.—Act XXXIV., 1850, sec. iii.

### *Immigrants from foreign States dangerous to the public Peace.*

140. Whenever the Governor-General in Council, upon due investigation, shall be satisfied that the emigrants from Arracan, or emigrants from any other state, who may have sought an asylum in the British territories, or the descendants of any of the said emigrants, shall have abused the protection afforded to them, by attempts to excite disturbances in the state from which they or their ancestors may have emigrated, it shall be competent to the Governor-General in Council to order the removal of those persons to such other part or parts of the country as may be judged most convenient for their future residence. In like manner, it shall be competent to the Governor-General in Council to order such removal whenever he may have grounds to be satisfied that the residence of any body of aliens, or their descendants, in the vicinity of the frontier of the country from which they or their ancestors may have emigrated, is likely to cause any serious misunderstanding between that state and the British Government.—Reg. XI., 1812, sec. ii.

141. Whenever any body of emigrants, or any individuals belonging to such body, shall be ordered to be removed from the part of the country in which they may have been established, they shall be allowed to dispose of any property which they may have acquired in such manner as they may judge proper; provided, however, that if they shall nevertheless retain the right to any real property at the period of their actual removal, it shall be competent to the Governor-General in Council to order such property to be sold by public auction, under the superintendence of the collector of the district. In that case, the net proceeds of the sale shall be duly paid to the person or persons to whom the said property belonged.—Reg. XI., 1812, sec. iii.

142. In cases in which the Governor-General in Council may, on due inquiry and mature deliberation, be satisfied that either the preservation of the tranquillity of the British territories, or of the dominions of the allies of the British Government, or the maintenance of the relations of amity subsisting between the British Government and other states, requires that any of the leaders or other persons of the above description, who may have committed the offences mentioned in paragraph 140, should be placed and detained under restraint, it shall be competent to the Governor-General in Council to order any such persons having committed any of the said offences, but not otherwise, to be apprehended and committed to confinement at such place, and under the custody of such public officer, and detained in confinement for such time as may be deemed by the Governor-General in Council necessary for the public good.—Reg. XI., 1812, sec iv.

143. Any persons of the above description, or their descendants, who, while living under the protection of the British Government, shall enter the country from which they or their ancestors may have emigrated, or any other foreign country, and shall excite, or attempt to excite, disturbances in the said countries, shall be liable to be brought to trial for that offence before the Sessions Court, and if convicted, shall be sentenced to suffer imprisonment for the period of seven years.—Reg. XI., 1812, sec. v., cl. 1.

144. Any persons, whether native British subjects or aliens, who shall furnish emigrants from foreign countries with any assistance, either of men, money, or arms, in prosecution of their attempts to excite disturbances in the country from which they may have emigrated, or in any other country, or shall otherwise aid such aliens in the prosecution of their criminal design, shall be liable to be brought to trial for that offence before the Sessions Court, and if convicted, shall be sentenced to suffer imprisonment for the term of seven years; provided, however, that if the session judge by whom the case may be tried shall be of opinion that the punishment established by this and the preceding paragraph should in any instance be mitigated, he shall submit the proceedings held on the trial to the Nizamut Adawlut, who will recommend to the Governor-General in Council such alleviation of the prescribed punishment as they may judge proper; provided, moreover, that no sentence or order which may be passed on the trial of any persons under the foregoing provisions

shall be competent, or shall be construed to preclude the Governor-General in Council from the exercise of the power vested in the Government by paragraph 142 —Reg. XI., 1812, sec. v., cl. 2.

*Tampering with the Army or Navy.*

145. Every person who maliciously and advisedly endeavours to seduce any person or persons serving or engaged to serve in the military or naval forces of the East-India Company from his or their allegiance to her Majesty, or duty to the said Company, or who endeavours to stir up any person or persons belonging to either of the said services to commit any act of mutiny, or to make or endeavour to make any mutinous assembly, or to commit any traitorous or mutinous practice whatsoever, shall, on conviction, suffer transportation for life, or imprisonment, with or without hard labour, for any term not longer than seven years, as the Court shall adjudge —Act XIV., 1849, sec. i.

146. Any person charged with any offence, punishable under this Act, may be committed by any magistrate within the territories under the Government of the East-India Company, and shall be tried by the Court of Sessions, or if the offender be not within the ordinary jurisdiction of the Court of Sessions, by the Supreme Court of Judicature established by royal charter —Act XIV., 1849, sec ii.

147. No Court shall, on the trial of any offence under this Act, require any futwah from any law officer —Act XIV., 1849, sec iii.

148 This Act shall not exempt any person governed by the Articles of War from being tried by a court-martial, and punished according to the Articles of War, nor any person belonging to the Indian navy from being tried by a court-martial, and punished according to the laws for the observance of discipline in the Indian navy, but no person shall be tried for the same offence under the said Articles or Laws, and also under this Act.—Act XIV., 1849, sec. iv.

OFFENCES AGAINST WOMEN.

*Rape, Adultery, and Fornication*

149 All complaints or prosecutions for adultery, rape, or fornication shall be preferred in the first instance at the cutcherry of the magistrate within the limits of whose jurisdiction the offence may have been committed, and the magistrates are prohibited from referring such cases for investigation or report to their police darogahs or other native authorities invested with the charge of the police. All investigations for the purpose of ascertaining the truth or falsehood of such charges shall be invariably conducted by the magistrate or his assistant, aided (so far as may be authorized by the Regulations and Acts) by the native officers attached to his Sudder Cutcherry —Reg VII, 1811, secs ii., iii, vi.

150. With the view of further restraining the institution of prosecutions for adultery and fornication, which ordinarily prove to be unfounded, misrepresented, or greatly exaggerated, the magistrates are strictly prohibited from issuing any process on these charges without previously examining the prosecutor as to the specific facts of the case, and satisfying themselves that adequate grounds exist for proceeding against the accused party. In cases, likewise, in which the magistrate shall see grounds to distrust the truth of a charge, he shall, previously to issuing process against the accused, summon the witnesses named by the prosecutor, or as many of them as he may judge proper, and examine them as to their knowledge of the facts and circumstances which are the subject of the complaint On occasions on which the magistrate may judge it necessary to make the previous inquiry above noticed, the rules regarding the payment of the subsistence of witnesses shall be duly enforced —Reg III, 1812, sec. ii, cl 6.

151. In trials before the Sessions Court for adultery, rape, or any other offence within the provisions of the Mahomedan law for cases of zinâ and fiâl-i-shuneea, the futwah of the law officer of the Sessions Court, before whom the trial may be held, shall declare only whether the prisoner is legally convicted, or if not, whether there be strong ground of presumption arising from his free confession, or from credible testimony, or from circumstantial evidence, that he is guilty of the crime charged against him.—Reg XVII, 1817, sec vi, cl 1.

152 If the futwah so given shall declare the prisoner legally convicted, or that there is strong presumption of his guilt, and the session judge, before whom the trial may be held, shall concur in the conviction of the prisoner, or in the presumption of his guilt, so as to render him a proper object of punishment, and the circumstances of the case shall not appear to call for a more severe punishment, the judge shall sentence the prisoner to suffer such punishment as may be deemed adequate to his guilt and the nature of the offence, not exceeding imprisonment with hard

labour for the term of seven years, and two additional years' imprisonment in commutation for corporal punishment.—Reg. XVII., 1817, sec. vi., cl. 2; and Reg. II., 1834.

153. If the prisoner be convicted, or presumed guilty of the heinous crime of rape, the session judge shall not pass any sentence, but shall refer the trial to the Court of Nizamut Adawlut, for the sentence of that Court, under the general Regulations in force.—Reg. XVII., 1817, sec. vi., cl. 3.

154. In cases of adultery it shall be requisite for the conviction and punishment of a married woman that she be prosecuted by her husband; and no other person shall be deemed competent to prosecute, or prefer the charge against her, in such cases.—Reg. XVII., 1817, sec. vi., cl. 4.

155. If any person shall be convicted before a zillah or city magistrate, or joint magistrate, of the offence of enticing and taking away, or causing to be enticed and taken away, a married woman living under the protection of her husband, or of any person having the care of her in his behalf; or of enticing and taking away, or causing to be enticed and taken away, an unmarried female, under the age of maturity, viz. fifteen years, and living with her parents or other legal guardians, or any persons acting in their behalf, for the purpose of rendering such married woman, or unmarried female minor, a prostitute or concubine, or otherwise disposing of her in an unlawful manner, without the consent of the husband, parent, or other guardian of the woman or minor thus disposed of, the person so convicted shall be liable to a sentence of fine and imprisonment, to such extent as may appear adequate to the circumstances of the case, and may not exceed imprisonment for six months, and a fine not exceeding two hundred rupees, commutable, if not paid, to a further period of imprisonment, not exceeding six months. If in any instance the offender shall appear to merit a more severe punishment, he shall be committed for trial before the Sessions Court; and the provisions of Section VI., Regulation XVII., 1817, are declared applicable to all such commitments.—Reg. VII., 1819, sec. ii.

### AFFRAYS.

156. Persons charged with the commission of affrays respecting the possession of land or crops, who shall be convicted of the offence, provided the affray was unattended with homicide, severe wounding, or other aggravating circumstances, may be punished by the magistrate, or joint magistrate, with imprisonment for a period not exceeding one year, and fine not exceeding two hundred rupees, to be commuted, if not paid, to a further period of imprisonment with or without labour in irons for a period not exceeding one year, so that the whole period of imprisonment shall in no case exceed two years.—Reg. I., 1822, sec. iii.; Reg. VIII., 1828, sec. iii.

157. The magistrate shall not refer any such case for examination and decision to his assistant, unless such assistant shall be invested with special powers, under Section II., Regulation III., 1821.—Reg. I., 1822, sec. iv.

158. In all cases of affray attended with homicide, severe wounding, or other aggravating circumstances, the magistrate or joint magistrate shall bring the offenders to trial before the Sessions Court, committing them to prison, or enlarging them upon bail, as the circumstances of each case may appear to require.—Reg. I., 1822, sec. v.

159. Whenever any person shall be tried before the Sessions Court on a charge of affray, attended with homicide, if both parties shall be found guilty of having had resort by premeditation to that mode of adjusting their differences, it shall not be competent to the session judge to sentence the person or persons so convicted to a less term of imprisonment than five years with or without hard labour.—Reg. II., 1823, sec. ii.; Reg. VI., 1828, sec. ii.

160. Whenever, with regard to any person or persons so convicted, the session judge shall be of opinion that the punishment above stated is more than adequate to the offence, he shall issue no sentence in the trial, but shall refer the case for the sentence of the Nizamut Adawlut, setting forth at large, in his letter of reference, the grounds on which he may apply for a mitigation.—Reg. II., 1823, sec. iii.

161. The minimum of punishment declared in paragraph 159 shall not be deemed applicable to cases arising out of a sudden quarrel, in which no premeditated purpose of affray may be established, nor in cases of assaults or other aggressions in which the assailed party may not be shown, by their previous preparation, or in any other way, to have been ready and intent to meet their adversaries in the field of combat; nor shall it be construed to apply to cases of affray, attended with homicide, in which persons guarding and protecting crops, grain, or property, in a legal manner, may be attacked by persons trespassing, or others, or who, in legal and just defence of the property under their charge, may resist aggression in self-defence; in all which cases, the session judges, agreeing with the futwahs of their law officers, shall pass such legal sentence as may be suitable to the offence of the several parties.—Reg. VI., 1828, sec. ii.

162. Nothing in this Regulation shall be construed to alter the existing rules by which a session judge is competent, in such cases, to pass a sentence of seven years' imprisonment, with or without labour, and two years' additional imprisonment in commutation for corporal punishment,

or those by which, where he may consider even that punishment to be inadequate to the offence, he is authorized to refer the trial, for a still heavier punishment, to the Court of Nizamut Adawlut. —Reg. II., 1823, sec. iv.

IMPORTATION OF SLAVES.

163 The importation of slaves, whether by land or by sea, into the places immediately dependent on the presidency of Fort William, is strictly prohibited; and any person infringing this prohibition shall be liable to be prosecuted and punished for the offence by the Courts of Criminal Judicature.—Reg. X., 1811., sec. ii.

164. Any person who may be convicted of the offence of importing slaves into the British territories shall be sentenced to imprisonment for the period of six months, and to pay a fine to Government according to his circumstances in life, not exceeding, however, the sum of rupees two hundred, commutable, if not duly discharged, to imprisonment for the further period of six months on the expiration of the former part of the sentence.—Reg. X., 1811, sec. iii.

165. Persons imported as slaves into the British territories shall be liable to be discharged or sent back to their friends and connections in the country from which they may have been imported, according as may appear most advisable to the magistrate by whom the decision on the case may be passed.—Reg. X., 1811, sec. iv.

166. For the more effectual prevention of the importation of slaves at the port of Calcutta, captains or supercargoes of vessels importing at Calcutta, shall, previously to being permitted to land any part of their cargo or goods, execute a bond, rendering themselves liable to the payment of a penalty of rupees five thousand, in the event of their disposing of any persons as slaves.—Reg. X., 1811, sec. v., cl. 1.

167. The bond mentioned in the preceding paragraph shall be taken by one of his Majesty's justices of the peace acting in and for the town of Calcutta, who will of course cause it to be executed in due form.—Reg. X., 1811, sec. v., cl. 2.

168. It shall be the duty of the collector of Government customs at Calcutta to ascertain that the prescribed bond has been executed, previously to permitting any part of the cargo or goods of any vessel to be landed.—Reg. X., 1811, sec. v., cl. 3.

169. The following is the form of the bond to be taken in the cases above stated :—

" Know all men by these presents, that I, ———, captain of the ———, now lying and being in the river Hooghly in Bengal, am held and firmly bound unto the East-India Company, in the sum of five thousand rupees of lawful money of Bengal, to be paid to the said Company, their certain attorney, successors, or assigns, for which payment to be well and truly made, I bind myself, my heirs, executors, and administrators, firmly by these presents, sealed with my seal, dated the ——— day of ———, in the year of our Lord one thousand eight hundred and ———. The condition of this obligation is such, that if the above-bounden ——— has made a just and true report in writing to the custom-master at Calcutta of the number of persons, male and female, imported by him into Bengal, in and on board the above-mentioned ———, and if the said ——— has not since his last arrival in Bengal, and shall not whilst he the said ——— or the said ——— shall be or remain in Bengal, land for the purpose of selling, giving away, or otherwise disposing of any person or persons imported on board the said ———, as and for a slave or slaves, and if the said ——— has not sold, given away, or disposed of, and shall not in Bengal, or in any of the countries of or under the management of the said Company, their governors or servants in India, sell, give away, or dispose of any person or persons, male or female, imported on board the said ———, on this her last arrival in Bengal, as and for a slave or slaves, then this obligation shall be void, otherwise the same shall be and remain in full force and virtue.

" Sealed and delivered (where no stamps are used) in the presence of ——— ." —Reg. X., 1811, sec. v., cl. 4.

TWO OR MORE OFFENCES CHARGED AT THE SAME TIME.

170. Whenever a prisoner may be charged before a magistrate of two or more distinct offences, for neither of which he may have been previously brought to trial, but for each of which he would have been subject, on conviction, to the penalties prescribed by Clause Fifth, Section II., (paragraph 49), or Clause Fourth, Section III., (paragraph 69), Regulation XII., 1818, or with two or more distinct thefts not being of the nature of those described in Clauses Second and Fourth, Section III., Regulation XII., 1818, (paragraphs 67 and 69), the magistrate shall refrain from passing sentence until he shall have completed his proceedings in both cases.—Reg. VI., 1824, sec. ii., cl. 1; Reg. VI., 1829, sec. ii., cl. 1.

## SPECIFIC OFFENCES.—TWO OR MORE OFFENCES AT THE SAME TIME.

171. In all or any of the above cases, it shall be competent to the magistrate, if the prisoner be convicted, to reduce the punishment for the two offences, so as not to exceed imprisonment for the term of two years, with an additional year in commutation for corporal punishment, provided he shall be of opinion, on consideration of the several acts of criminality established against the prisoner, and the circumstances of each case, that the punishment above specified is sufficient.—Reg. VI., 1824, sec. ii., cl. 2; Reg. VI., 1829, sec. ii., cl. 2.

172. The magistrates and joint magistrates are empowered to commit for trial before the Sessions Court any persons charged with two or more offences of the above descriptions, whenever they may be of opinion that there exist any circumstances of aggravation, such as to render the prisoner deserving of a more severe punishment than they are competent to inflict.—Reg. VI., 1829, sec. ii., cl. 3.

173. The magistrates and joint magistrates will include all sentences passed by them under the foregoing provisions in the statements which they are required to submit periodically to the Sessions Courts, by Clause First, Section VI., Regulation XII. of 1818, and Clause First, Section III., Regulation IV. of 1820, ("MAGISTRATES," paragraph 96).—Reg. VI., 1829, sec. iii.

174. Whenever a prisoner may be brought to trial before a Sessions Court for two or more distinct offences included in separate commitments, and may be convicted at the same session of two or more offences, the prescribed penalties of which, under the Regulations in force, may exceed in the aggregate imprisonment for fourteen years, besides the further imprisonment in commutation for corporal punishment, but may not, for the crime established against the prisoner on any one commitment, amount to death or imprisonment for life (in which case the trial would be referrible to the Nizamut Adawlut), the session judge is authorized to reduce the prescribed punishments for the whole of the offences of which the prisoner may be so convicted at the same session, so as not to exceed in the aggregate imprisonment, in banishment from the district, for a term of fourteen years, and two years' additional imprisonment in commutation of corporal punishment; provided he shall be of opinion, on consideration of the several acts of criminality established against the prisoner, and the circumstances of each case, that the punishment above specified is sufficient. If the session judge, however, should be of opinion that the prisoner is deserving of imprisonment for a longer period, he shall pass sentence, in the several cases, for the punishment prescribed by the Regulations, and shall transmit the proceedings on each case, with a report of the circumstances and his sentiments on the punishment which should be inflicted upon the prisoner for the final sentence or order of the Court of Nizamut Adawlut.—Reg. XV., 1814, sec. ii., cl. 1.

175. The principle of the foregoing paragraph shall be also considered applicable to cases in which prisoners convicted and sentenced at a preceding session of a Sessions Court may be convicted, at a subsequent session, of another offence committed before their first conviction and sentence. But it is not meant to apply to any new offence committed by a person after his conviction of a former offence, whether the period of confinement to which he may have been sentenced for his former offence shall have expired at the time of his committing the subsequent offence, or otherwise.—Reg. XV., 1814, sec. ii., cl. 2.

176. When a prisoner, committed or held to bail for trial before a Sessions Court on two or more distinct charges, may be liable on one or more convictions to a sentence of imprisonment for fourteen years, and the further charge or charges against the prisoner may not be such as would, on conviction, subject him to a sentence of death or imprisonment for life, it shall not be requisite for the session judge to try such additional charge or charges, unless there shall appear to be special and sufficient cause for trying the same. Provided that whenever a session judge may exercise the discretion thus vested in him, he shall report the same, with his reasons, to the Court of Nizamut Adawlut, in the statement transmittible to that Court of sentences passed by the Sessions Court; or if the trial held upon the prisoner be on any account referrible to the Nizamut Adawlut, in the letter accompanying such trial; and it shall be competent to the Nizamut Adawlut to order a further trial of the remaining charge or charges against the prisoner, in all cases wherein that Court may judge it proper so to direct.—Reg. XV., 1814, sec. ii., cl. 3.

# CRIMINAL JUDICATURE.

## PUNISHMENTS.

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| viii. 1. | | Unnecessary; only rescinds. |
| viii. 2 & 3. | 4, 5 | The latter part of cl. 2 is superseded by Act XIV., 1844. |
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| 1844. III. i. to iii. | 15 to 17 | |
| XIV. i. | 3 | |
| XVIII. i. | | Unnecessary; only repeals. |
| ii. | 12 | |
| 1849. II. i. | | Unnecessary; only rescinds. |
| ii. | 25 | |
| 1850. XVI. i., ii. | 23, 24 | |

### TABLE OF DIVISIONS.

| TITLES OF DIVISIONS. | Nos. of Paragraphs. |
|---|---|
| Capital. | 1 and 2 |
| Transportation and Banishment. | 3 to 12 |
| Corporal. | 13 to 17 |
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| Fines. | 20 to 2 |
| Branding, &c. | 25 |

# CRIMINAL JUDICATURE.

## PUNISHMENTS.

### CAPITAL PUNISHMENT.

1. It shall not be competent to a single judge of the Nizamut Adawlut to pass sentence for capital punishment, which shall in all cases require the concurrent opinion of two judges of the Court.—Reg. IX., 1831, sec. iv., cl. 4.

2. The Register of the Nizamut Adawlut, within three days after the passing of the final sentence, shall transmit a copy of it under the seal of the Court, and attested by his official signature, to the judge of the Sessions Court, who is immediately to issue a warrant to the proper magistrate to cause the sentence to be carried into execution. The magistrate, upon receipt of the warrant, shall cause the sentence to be carried into execution without delay, and return the warrant with an indorsement attested with his official seal and signature certifying the execution of the sentence. The warrant is to be forwarded by the judge to the Nizamut Adawlut.—Reg. IX., 1793, sec. lxxviii.

### TRANSPORTATION AND BANISHMENT.

3. Whenever any of the Sudder Courts shall sentence any offender to imprisonment for life, it shall at the same time sentence such offender to transportation beyond sea for life, unless there should be special reasons inducing the Court to think such prisoner not a proper subject for transportation, which special reasons the Court is directed to record.—Act XIV., 1844, sec. i.

4. Transportation beyond sea shall be restricted to convicts, who may be sentenced to confinement for life.—Reg. LIII., 1803, sec. viii., cl. 2.

5. In the cases of convicts sentenced to confinement for life, whom the Sessions Court and Nizamut Adawlut may not consider proper objects of transportation beyond sea, as well as in all cases of convicts sentenced to imprisonment for a limited period, the Court by whom the sentence is passed, if it deem the same proper on consideration of the prisoner's offence, may adjudge him to be banished, during the period of his sentence, from the district in which his place of abode is situated, and to be kept to hard labour on the public roads, or other public works, in any other district to which he may be removed by order of the Nizamut Adawlut.—Reg. LIII., 1803, sec. viii., cl. 3.

6. Provided always, that it shall be competent to the Governor-General in Council to detain in the gaol at Allypore, for any period which he may deem expedient, any convicts sentenced to transportation.—Reg. IX., 1813., sec. ii., cl. 2.

7. All convicts sentenced to transportation, shall be sent to such of the British settlements in Asia, or to the island of Mauritius, or its immediate dependencies, as the Governor-General in Council shall appoint; and shall also be liable to be employed at any places within the limits of the settlement to which they shall be sent, which shall from time to time be fixed on by the local administration. A power is further vested in the Governor-General in Council of transferring convicts from one place to another in the settlements aforesaid; and such transfer is authorized, as often as the same may be found requisite. The Governor-General in Council, however, previously to ordering such transfers, will consult the local administration upon the propriety of allowing any convicts to be exempted from removal, whose good conduct shall have merited this indulgence, or who from sickness or infirmity may not be fit objects to be removed.—Reg. IX., 1813, sec. ii., cl. 3; Reg. XIV., 1816, sec. xv.

8. As soon as any offender shall be delivered to the person or persons to be appointed by the Governor-General in Council, on that behalf, at the place to which he is transported, the property in the service of such offender shall be vested in such person or persons during the term of transportation.—Act XVI., 1840, sec. ii.

9. It shall be lawful for the Governor-General in Council to appoint the Governor or other authority at any place within the territories of the East-India Company, or to appoint one or more superintendents at any such place as the persons to whom convicts undergoing transportation shall

be delivered, and in whom the property in the service of such convicts shall be vested as aforesaid. —Act XVI., 1840, sec. ii.

10. It shall be lawful for the Governor-General in Council to issue orders from time to time, to any such Governor, authority, or superintendent, and which orders are required to be duly executed, and to frame rules touching the classification of convicts, their confinement, treatment, and discipline, and touching such moderate correction as may be necessary in cases of misbehaviour and disorderly conduct, and of neglect or disobedience in the service of those persons in whom the property of such service may be vested as aforesaid.—Act XVI., 1840, sec. iii.

11. All persons who have heretofore been transported to any place within the territories of the East-India Company, and whose terms of transportation are not yet expired, shall be subject to the provisions contained in this Act; and nothing heretofore done with respect to offenders who have been so transported in conformity with the provisions of this Act, or by the orders or with the sanction of Government, shall be called in question in any Court of law.—Act XVI., 1840, sec. iv.

12. The control and superintendence over the places of banishment or transportation of prisoners is vested in the magistrates and joint magistrates, acting under the instructions of the zillah or city judges; and those officers shall be guided in regard to all matters relating thereto by such orders as they may receive from their respective local Governments.—Act XVIII., 1844, sec. ii.

### CORPORAL PUNISHMENT.

13. No sentence of corporal punishment shall be passed by any Court, or any officer exercising magisterial powers, except as hereinafter allowed.—Reg. II., 1834, sec. ii., cl. 1.

14. Whenever a case may come before such Court or officer, in which a prisoner would have been liable to corporal punishment under any Regulation, in addition to the period of imprisonment limited by the Regulations, it shall be competent to such Court or officer passing sentence to direct an additional period of imprisonment, as follows: Courts of Nizamut Adawlut, or Courts of Sessions, two years; magistrates or joint magistrates, one year; assistants, principal, and other sudder aumeens, one month.—Reg. II., 1834, sec. ii., cl. 2.

15. It shall be competent to a magistrate, on conviction, in cases of thefts of property not exceeding in value the sum of fifty rupees, to sentence the person convicted to corporal punishment, not exceeding thirty stripes of a rattan.—Act III., 1844, sec. i.

16. It shall be competent to a magistrate, and he is required, on conviction, in cases of theft of property not exceeding in value the sum of fifty rupees, if the person convicted shall appear to him by inspection, or other evidence, to be of such tender years as to require punishment rather in the way of school discipline than of ordinary criminal justice, to sentence such person to corporal punishment with a light rattan, not exceeding ten stripes.—Act III., 1844, sec. ii.

17. No female shall be subject to corporal punishment; and in cases of infliction of corporal punishment, no other punishment shall be superadded, and the punishment shall be inflicted on all occasions in the presence of the magistrate.—Act III., 1844, sec. iii.

### LABOUR.

18. In all cases of conviction for offences in which a sentence of imprisonment shall be passed for a period less than five years, with exception to the offences of murder, dacoity, highway robbery, burglary, theft, receiving stolen or plundered property, forgery, perjury, arson, and rape, or of convictions of any attempt to commit any of those offences, the Criminal Courts are required to commute the penalty of labour, with or without irons, which they are authorized to award in addition to imprisonment, to a fine not exceeding the amount which they are respectively competent to impose under the Regulations in force; such fine to be regulated with reference to the nature of the offence, the circumstances in life of the offender, and the term of imprisonment to which he may be sentenced. The Court imposing the fine shall fix a certain day within a reasonable time, not exceeding one month, for the payment thereof, and direct that, in default of payment by the period prescribed, the prisoner be subjected to labour, without fetters, until such fine be paid, or if not paid, until the completion of the term of his sentence. Nothing, however, in the foregoing rule shall be construed to supersede the power of the session judges, or Nizamut Adawlut, of exempting persons from labour and irons in any case whatever in which they may deem such exemption just and proper.—Reg. II., 1834, sec. iii., cl. 1.

19. All prisoners who may be exempted, or may be declared entitled to exemption from labour on payment of a fine under the rule prescribed in the preceding paragraph, shall, as far as practicable, be kept separate, both in and out of the jail, from convicts under sentence of labour in

irons; and magistrates and superintendents of prisoners and their subordinate officers, shall be careful to prevent all communication between the two classes.—Reg. II., 1834, sec. iii., cl. 2.

FINES.

20. No fines shall be imposed by any Court of Criminal Judicature except to the use of Government; and whenever a fine shall be so imposed, the Court which may pass the sentence shall at the same time, weighing all the circumstances of the case, fix a definite period of imprisonment, to be held as equivalent to the fine, at the expiration of which the persons convicted shall be discharged, although they should have omitted to pay the fine. The imprisonment which may be awarded by the Sessions Court as an equivalent for fines imposed by them shall be temporary in all cases and not for life, and their sentences shall be executed without reference to the Nizamut Adawlut.—Reg. XIV., 1797, sec. iii.

21. In all cases in which offenders are or may be punishable by any magistrate with fine or imprisonment, or both, according to the provisions of any Act heretofore passed or which shall hereafter be passed by the Governor-General of India in Council, and where the extreme amount of the fine or imprisonment is not specified, it shall not be lawful for the magistrate to impose any fine exceeding two hundred rupees, or to imprison the offender for any term exceeding six months. —Act II., 1839, sec. ii.

22. In all cases in which offenders are or may be punishable by fine before a magistrate, according to the provisions of any Act heretofore passed or which hereafter shall be passed by the Governor-General of India in Council, it shall be lawful for the magistrate, and he is required, to receive proof of the commission of the offence upon oath, or upon solemn affirmation in cases where a solemn affirmation is receivable by law instead of an oath.—Act II., 1839, sec. iii.

23. All Criminal Courts may add to the punishment competent to them to inflict upon persons convicted before them of robbery, theft, embezzlement, knowingly receiving stolen goods, cheating, or other wrongful appropriation of property, or of being accessory or privy to any such offence, the punishment of fine not exceeding the loss appearing to be caused to the several persons who have suffered by such wrong; and may pay and distribute the proceeds of the said fine, or any part thereof, to or for the benefit of the said several persons, according to the discretion of the Court.—Act XVI., 1850, sec. i.

24. Payment of every such fine may be enforced by distress and sale, under the order of the Court, of the goods of the offender.—Act XVI., 1850, sec. ii.

NOTE.—See "MAGISTRATES," paragraphs 55 and 56, and "SPECIFIC OFFENCES," paragraphs 77 and 78.

BRANDING, &c.

25. It shall not be lawful for any Court or magistrate within the territories under the Government of the East-India Company to order that any brand or indelible mark of any kind be made or renewed on any part of the person of any convicted offender, or to sentence any offender to be publicly exposed by tusheer, or to any other degrading exposure.—Act II., 1849, sec. ii.

# CRIMINAL JUDICATURE.

## MAHOMEDAN LAW.

### TABLE OF ENACTMENTS.

| Original Regulation or Act. | Paras. in Consolidation | REMARKS. |
|---|---|---|
| 1793. IX. xlvii. | 1 | Additions from sec. lxxiv., Reg. IX., 1793. |
| li. | 3 | |
| lii. | | Rescinded by sec. ii., Reg. IV., 1797. |
| liii., liv. | 2 | |
| lv. | | Rescinded by sec. ii., Reg. IV., 1797. |
| lvi. | 4 | |
| lxxiv. | | Incorporated with sec. xlvii., Reg. IX., 1793. |
| 1797. XIV. iv. | 6 | |
| 1803. LIII. i. & ii. | 7 to 14 | |
| vii. | 15 to 18 | |
| 1810. I. ii. to iv. | 19 to 21 | |
| 1817. XVII. v. | 5 | |
| 1822. IV. iv., vii. | 27, 28 | |
| 1832. VI. iv. to vi. | 23 to 26 | |
| 1836. XXX. iii. | 22 | Additions from sec. iii., Act XXIV., 1843, and sec. iii., Act XI., 1848. |
| 1843. XXIV. iii. } 1848. XI. iii. } | | Incorporated with sec. iii., Act XXX., 1836. |
| 1849. IV. i. to vi. | 29 to 34 | |
| vii. | | Unnecessary. |

### TABLE OF DIVISIONS.

| TITLES OF DIVISIONS. | Nos. of Paragraphs. |
|---|---|
| General Rules for its Administration. | 1 to 18 |
| Exemption from Reference for Futwah of Mahomedan Law Officers. | 19 to 26 |
| Procedure in Cases of Alleged Insanity. | 27 to 34 |

# CRIMINAL JUDICATURE.

## MAHOMEDAN LAW.

### GENERAL RULES FOR ITS ADMINISTRATION

1. The law officers of the Sessions Courts and of the Nizamut Adawlut shall declare the Mahomedan law as applicable to the several cases that come before them, and the sentence of the Courts shall be regulated by the futwahs of the law officers and by the Mahomedan law, except as otherwise provided in the Regulations and Acts of Government.—Reg. IX, 1793, secs. xlvii, and lxxiv.

2. The judges of the Sessions Courts are to refer to the cauzy and mufty of their respective Courts all questions on points of law that may arise during the course of any trial, and respecting which no specific rules shall have been enacted by the Governor-General in Council, and shall regulate their proceedings by the opinions which may be delivered by those officers If such opinions shall appear to the judges contrary to the principles of natural justice or to the Mahomedan law, they are nevertheless to be guided by them, and after completing the trial, and obtaining the futwah of the law officers upon the case, as well as in all cases in which they may disapprove of the futwah, they shall, without passing sentence upon the case, transmit the proceedings and futwah to the Nizamut Adawlut, with a separate letter stating their objections to such opinions or futwah, and wait the sentence of that Court —Reg IX, 1793, secs. liii and liv.

3. No criminal shall suffer the punishment of mutilation. If a prisoner shall be sentenced, in conformity to the futwah of the law officers, to lose two limbs, instead of being made to undergo such punishment, he shall be imprisoned and kept to hard labour for fourteen years, and if any prisoner shall be so sentenced to lose one limb, he shall, in lieu of such punishment, be imprisoned and kept to hard labour for seven years The judges are accordingly directed, whenever any criminal shall be sentenced to suffer mutilation, to commute such punishment for imprisonment and hard labour for the term above prescribed, and to issue their warrant to the magistrates for that purpose.—Reg. IX, 1793, sec li.

4. The religious persuasions of witnesses shall not be considered as a bar to the conviction or condemnation of a prisoner, but in cases in which the evidence given on a trial would be deemed incompetent by the Mahomedan law, solely on the ground of the persons giving such evidence not professing the Mahomedan religion, the law officers of the Sessions Court are to be required to declare what would have been their futwah, supposing such witnesses had been Mahomedans The Sessions Courts are not to pass sentence on such cases, but shall transmit the record of the trial, with the futwah directed to be required from the law officers, to the Nizamut Adawlut, which Court, provided they approve of the proceedings held on the trial, shall pass such sentence as they would have passed, had the witnesses, whose testimony may be so deemed incompetent, been of the Mahomedan persuasion —Reg IX, 1793, sec. lvi.

5. If the evidence of a witness on a criminal trial before a Sessions Court be declared by the Mahomedan law officer inadmissible, on the ground of the witness being a police officer, or an officer of Government of any description, or on any other ground of exception in the Mahomedan rules of evidence, which may appear to the judge of sessions unreasonable and insufficient, the judge shall cause the examination of the witness to be taken, notwithstanding the exception stated by the law officer, and shall require the latter, on completion of the trial, to declare in his futwah the sentence to which the prisoner would have been liable, if the evidence of the witness or witnesses objected to had been admissible under the provisions of the Mahomedan law. In such cases, however, if the conviction of the prisoner depend exclusively or principally upon the evidence of the witness or witnesses objected to by the law officer, the judge of sessions shall not pass any sentence, but shall refer the trial to the Nizamut Adawlut, which Court is empowered to pass such sentence as may be deemed just and proper under the general Regulations in force.—Reg. XVII., 1817, sec v

6. Whenever the law officers of the Sessions Courts shall declare prisoners liable to deyut or pecuniary fines of any kind, for any other acts than murder and the several descriptions of homicide specified in Section III, Regulation IV., 1797, the Sessions Courts shall, at their discretion, commute such deyut or fines to imprisonment, for such period as they may think adequate to the offence, and their sentences in such instances shall be carried into execution without reference to the Nizamut Adawlut, if for temporary imprisonment, or referred to that Court, if for imprisonment

for life, which shall, at its discretion, confirm the said sentences, or mitigate or entirely remit the imprisonment awarded.—Reg. XIV., 1797, sec. iv.

7. The Mahomedan law vests in the sovereign and his delegates the power of sentencing criminals to suffer discretionary punishment (under the legal denominations of tazeer, acoobut, and seeasut), in three cases. First, in the case of offences for which no specific penalty of hud or kissaas has been provided by the law; being, for the most part, offences not of a heinous nature, the punishment of which is left discretionary, below the measure of the specific penalties, for the correction and amendment of the offender. Secondly, for crimes within the specific provisions of hud and kissaas; when the proof of the commission of such crimes may not be such as the law requires for a judgment of the specific penalties, though sufficient to establish a strong presumption of guilt; or although the proof be such as is required for a sentence of hud or kissaas, when such sentence is barred by a remission of the claim to retaliation in cases of kissaas, or by any of the special exceptions and scrupulous distinctions which (under the general denomination of shoobah) are considered by the prevalent authorities of Mahomedan law to bar a judgment for the specific penalties of that law. Thirdly, for heinous crimes, in a high degree injurious to society; and particularly for repeated offences of this description, which, for the ends of public justice (as expressed by the term seeasut), may appear to require exemplary punishment beyond the prescribed penalties; and with respect to crimes of this description, an unlimited discretion, extending to capital punishment, is admitted to have been left by the Mahomedan law to the sovereign authority of every country in which that law prevails, as well as to its judiciary delegates. In the adjudication of punishments under the discretion thus allowed by the Mahomedan law, especially in the second of the three cases above stated, it has been observed, that the futwahs of the Mahomedan law officers of the Criminal Courts are often governed by a consideration of the degree of proof against the party accused, rather than the degree of guilt and criminality of the act established against him; and the penalties awarded by them, in such cases, are either adjudged on insufficient proof of guilt, or are inadequate to the heinousness of the offence of which the prisoner is convicted. It is, therefore, necessary that provision be made for determining the punishment to be adjudged by the Criminal Courts, in all cases wherein a discretion is left by the Mahomedan law, as well to guard against the infliction of any punishment without sufficient evidence of guilt, as to maintain the uniform and adequate punishment of offenders, when convicted, according to the criminality of the offences established against them. It is further requisite to define the crime and punishment of robbery by open violence, under the continued prevalence of this atrocious crime, which is frequently attended with murder, or with maiming, or other personal injury, as well as with the crime of arson or wilful burning of houses, and other aggravating circumstances, and for the punishment of which the specific provisions of the Mahomedan law, under the distinctions admitted to except offenders from the stated penalties, as well as from a distinction in the received construction of that law, between highway robbery at a distance from any inhabited place, and robberies not committed on or near the highways, or committed in or near any place inhabited, have been found altogether inadequate. In the case of murder committed by one or more robbers on the highway (kuttâ-oolturreek) at a distance from any inhabited place, the whole of the principals and accomplices are subject, by the Mahomedan law (under its specific provision of hud, or stated punishment by the right of God, being, in other words, exemplary punishment inflicted for the prevention of crimes, which is the end of public justice), to a sentence of death. The same punishment, in this instance, is inflicted on the whole band, in consideration of each of them being aiding and abetting to the others; and this principle, as allowed by some of the Mahomedan lawyers, is obviously applicable to all murders and other crimes committed by open violence, and by a number of persons assisting and supporting each other, whether on the highway, remote from or near to an inhabited place, or within a place inhabited, or in any other place whatever. But according to the prevailing doctrines, this provision of the Mahomedan law, as well as the provisions it contains for the punishment of highway robbery without murder, by amputation of two limbs, cannot be applied to murders or robberies committed in any other place than on or near the highway, at a distance from any place inhabited; and even with respect to these, it is held that the specific punishment is barred by any one of the band of robbers being under age, or a lunatic, or a relation within the prohibited degrees of the person robbed or murdered; or by the person robbed or murdered not being a fixed resident under the permanent protection of the Mussulman government; or with respect to robberies, by one of the robbers having a joint interest in the property plundered, or such property not being considered in legal custody with respect to any one of the robbers; or lastly, with regard to the separate punishment of each robber, if his share of the property taken shall not amount in value to ten dirms, being, according to the received calculation of the dirm, somewhat less than three rupees. These distinctions are evidently repugnant to the principles of public and equal justice. —Reg. LIII., 1803, sec. i.

8. In all trials before the Sessions Courts, wherein the Mahomedan law officers of those Courts may consider the prisoner liable to discretionary punishment (tazeer, acoobut, or seeasut),

their futwah shall declare the same generally, with a statement of the grounds on which the prisoner is adjudged subject to discretionary punishment, leaving the measure of punishment in such cases to be determined by the session judge before whom the trial may be held, or by the Court of Nizamut Adawlut, under the provisions contained in the Regulations.—Reg. LIII., 1803, sec. ii., cl. 1.

9. If the crime for which the prisoner is declared liable to discretionary punishment, in such cases, shall have been specifically provided for by any subsisting Regulation, denouncing the penalty to be adjudged on proof of the commission of such crime, and the judge before whom the trial may be held shall consider the crime to have been established against the prisoner, whether by his free and voluntary confession, or by the testimony of credible witnesses, or by strong circumstantial evidence, he shall sentence the prisoner to suffer the punishment for such crime prescribed by the Regulations; or, if the case be referrible under the Regulations for the sentence of the Nizamut Adawlut, shall transmit the trial, with his opinion thereupon, to that Court.—Reg. LIII., 1803, sec. ii., cl. 2.

10. If the crime for which the prisoner is declared liable to discretionary punishment shall not have been specifically provided for by any Regulation denouncing the penalty to be adjudged on proof of the commission of it, but be such as would have subjected the prisoner to the specific penalty of hud or kissaas provided by the Mahomedan law, if he had been convicted by full legal evidence, and the futwah of the law officer shall declare him liable to discretionary punishment, in consequence of the evidence not being such as the Mahomedan law requires for a sentence of hud or kissaas, though sufficient to convict the prisoner on strong presumptive proof or violent presumption (ghalib-oo-zun), the judge before whom the trial may be held, provided he concur in the conviction of the prisoner, shall require the law officer to declare by a second futwah to what specific punishment (of hud or kissaas) the prisoner would have been liable under the Mahomedan law, if he had been convicted by full legal evidence, and shall proceed thereupon to pass sentence according to such second futwah (commuting the punishment, if any Regulation require it); or if the case be referrible for the sentence of the Nizamut Adawlut, shall transmit the trial, with his opinion, to that Court.—Reg. LIII., 1803, sec. ii., cl. 3.

11. The judge before whom the trial may be held shall proceed in like manner as directed in the preceding paragraph, when the crime of which the prisoner is convicted (whether upon full legal evidence or upon strong presumptive proof) may not have been specifically provided for by any Regulation, but would subject the prisoner to the specific penalty of hud or kissaas provided by the Mahomedan law, if the sentence against him for such penalty were not barred by some special exception or scrupulous distinction (shoobah), not affecting the nature and criminality of the offence, and evidently repugnant to the principles of equal justice, in consequence of which bar to a judgment for the specific penalty the prisoner is declared liable to discretionary punishment. In such cases, the law officer is to declare, by a second futwah, to what punishment the prisoner would have been liable under the Mahomedan law for the crime committed by him, if the special exception or distinction, by which hud or kissaas is barred in the particular case, had not existed; and the judge is to proceed thereupon as directed in the preceding paragraph.—Reg. LIII., 1803, sec. ii., cl. 4.

12. Nothing in this section, however, shall be construed as authorizing a sentence of discretionary punishment exceeding, or equal to, the specific punishment prescribed by the Mahomedan law, in cases where such specific penalty is remitted or mitigated by the provisions of the Mahomedan law, in consideration of circumstances which alter the nature and diminish the criminality of the offence; unless such enhanced or equal punishment for the crime in question shall have been expressly denounced by some Regulation in modification of the Mahomedan law. —Reg. LIII., 1803, sec. ii., cl. 5.

13. Nor shall any part of the present Regulation be considered to authorize the infliction of any punishment whatever upon suspicion only (termed by the Mahomedan lawyers wuhm, shuk, or shoobah zaeefah), when the evidence against the prisoner is undeserving of credit, or the presumption of his guilt, arising from credible testimony, or circumstantial evidence, is weak, and does not amount to the degree of strong and violent presumption held sufficient for conviction, and recognized as such in the Mahomedan law, under the denominations of ghalib-oo-zun, akbur-oo-raee, and shoobuh-oo-cuvvee, or shoodeed. When the judge before whom a prisoner may be tried shall not consider him convicted on such presumptive proof, or on the evidence of credible witnesses, or on his own confession, he shall not sentence the prisoner to suffer any punishment, whatever may be the futwah of the law officer. But upon proof of notorious bad character, the session Judge may direct the zillah or city magistrate to detain the prisoner in custody, until he shall give sufficient security for his future good behaviour and appearance when required.—Reg. LIII., 1803, sec. ii., cl. 6.

14. If the crime of which the prisoner is convicted, and for which he is declared liable to discretionary punishment, shall neither have been specifically provided for by any Regulation, nor

by any stated penalty in the Mahomedan law, and the judge before whom the trial may be held shall consider the crime to have been established against the prisoner and deserving of punishment; he shall, after consulting with the law officer respecting the measure of punishment which, under the discretion left by the law, and the whole of the circumstances of the case, should be inflicted upon the prisoner, adjudge the prisoner to suffer such punishment as may appear adequate to his guilt and the nature of the offence of which he is convicted, not exceeding imprisonment with hard labour for the term of seven years, and two years' additional imprisonment in commutation of corporal punishment. If, in any instance, this degree of punishment appear to the session judge insufficient, in a case not specifically provided for by the Mahomedan law or the Regulations, he shall transmit the trial, with his sentiments thereupon, to the Court of Nizamut Adawlut.—Reg. LIII., 1803, sec. ii., cl. 7; and Reg. II., 1834.

15. In all trials transmitted by the Sessions Court to the Court of Nizamut Adawlut, in which the Mahomedan law officers of that Court may consider the prisoner or prisoners liable to discretionary punishment, they shall declare the same generally, with a statement of the grounds on which the prisoner or prisoners may be adjudged by them subject to discretionary punishment, leaving the measure of punishment in such cases to be determined by the judges of the Nizamut Adawlut, under the provisions contained in Regulation LIII., 1803, or any other existing Regulation.—Reg. LIII., 1803, sec. vii., cl. 1.

16. The several provisions made by paragraphs 9 to 13, for the guidance of the Sessions Court, in cases wherein their law officers may declare a prisoner or prisoners liable to discretionary punishment, and wherein a specific punishment may have been fixed and declared by the Regulations, or wherein the specific penalties of the Mahomedan law may be withheld, on the ground of the evidence against the prisoner not being such as the law requires for a sentence of hud or kissaas, though sufficient to convict the prisoner on strong presumptive proof, or wherein the sentence of hud or kissaas is barred against the prisoner, though fully convicted, by some special exception or distinction, not affecting the nature and criminality of the offence, and evidently repugnant to the principles of equal justice, shall be considered equally applicable to all cases of the same descriptions, wherein the law officers of the Nizamut Adawlut, in any trials before that Court, may declare the prisoner or prisoners liable to discretionary punishment; and the judges of that Court are to pass sentence accordingly, after taking a second futwah from their law officers in cases which may require it.—Reg. LIII., 1803, sec. vii., cl. 2.

17. In trials referred to the Nizamut Adawlut, under paragraph 14, viz. when the crime of which the prisoner is convicted, and for which he is declared liable to discretionary punishment, shall not have been specifically provided for, either by the Regulations, or by any stated penalty in the Mahomedan law, the judges of the Nizamut Adawlut, provided the offence be punishable at discretion under the Mahomedan law, they shall be satisfied of the conviction of the prisoner, are authorized to pass such sentence upon the prisoner, not extending to capital punishment, as they may deem adequate to the crime of which he has been convicted, and consonant to the general principles of justice, on due consideration of all the circumstances of the case.—Reg. LIII., 1803, sec. vii., cl. 3.

18. The provisions contained in Sections III. and IV. of Regulation LIII., 1803 (Specific Offences, paragraphs 27 to 34), shall govern the sentences of the Court of Nizamut Adawlut in the cases therein specified, and the judges of that Court are authorized to adjudge the stated punishment, whatever may be the futwah of their law officers; provided that it shall declare the prisoner or prisoners to have been convicted of the crimes incurring the stated penalties, either on free and voluntary confession, or on the testimony of credible witnesses, or on strong circumstantial evidence (sufficient to establish ghalib-zun, or violent presumption of guilt): and provided the judges of the Nizamut Adawlut shall see no cause to disapprove such conviction of the prisoner or prisoners, or to mitigate or remit the specified punishment.—Reg. LIII., 1803, sec. vii., cl. 4.

### EXEMPTION FROM REFERENCE FOR FUTWAH OF MAHOMEDAN LAW OFFICERS.

19. Whenever there may appear to be sufficient cause for dispensing with the attendance and futwah of the law officers of the Sessions Courts upon a criminal trial or trials to be held before any of those Courts, it shall be competent to the Governor-General in Council, or to the executive Government for the time being, to order the same; and an official communication of such order by the secretary to Government in the judicial department shall be deemed sufficient authority for the trial or trials therein referred to being held before the judge of the Sessions Court, without the attendance or futwah of the law officers.—Reg. I., 1810, sec. ii.

20. In such cases, no sentence shall be passed by the session judge; but the proceedings on the trial, when completed, shall be transmitted with the opinion of the judge on the evidence and facts established, for the sentence of the Court of Nizamut Adawlut.—Reg. I., 1810, sec. iii.

21. In the event of any question of Mahomedan law arising upon such trials, the same shall be recorded upon the proceedings, for the information and decision of the Court of Nizamut Adawlut; but if the question refer to the competency of a witness, such witness shall be examined, leaving the admission or ultimate rejection of the testimony so given to the consideration of the Nizamut Adawlut.—Reg. I., 1810, sec. iv.

22. No Court shall require any futwah from any law officer on the trial of any person accused of any of the following offences: having belonged to any gang of Thugs or Dacoits either within or without the territories of the East-India Company; or to any wandering gang of persons associated for the purpose of theft or robbery, not being gangs of Thugs or Dacoits.—Act XXX., 1836, sec. iii.; Act XXIV., 1843, sec. iii.; Act XI., 1848, sec. iii.

23. Criminal trials may be held without the necessity of any special authority from the Government by all Courts of criminal justice in which a commissioner of circuit or judge of sessions may preside, with the aid of a native punchayet, or assessors, or jury, under the provisions of Act VI., 1832. In all such trials, the futwah of a Mahomedan law officer is declared unnecessary, and may be dispensed with at the option of the Court, anything in the existing Regulations to the contrary notwithstanding; provided that whenever the futwah is dispensed with, and the crime of which the prisoner is convicted be one which the judge is not specifically empowered by the Regulations to punish, he shall not proceed to pass sentence, but shall refer the case for the consideration of the Nizamut Adawlut, stating at length in the proceedings the opinion of the punchayet, assessors, or jury, and his own opinion as to the crime proved, and the nature and extent of the punishment which should be awarded.—Reg. VI., 1832, sec. iv., cl. 1.

24. In all such trials, the decision is vested exclusively in the officer presiding in the Court, provided that the sentence be one which, under the existing Regulations, it is within his competency to pass.—Reg. VI., 1832, sec. iv., cl. 2.

25. Any person not professing the Mahomedan faith, when brought to trial on a commitment for an offence cognizable under the general Regulations, may claim to be exempted from trial under the provisions of the Mahomedan criminal code; and in such case the session judge presiding on the trial shall comply with such requisition, and shall proceed in one of the three modes above referred to, at the same time dispensing with the futwah of the Mahomedan law officer.—Reg. VI., 1832, sec. v.

26. It shall not hereafter be necessary that a futwah be filed by the law officers in every case that may be referred for the final sentence of the Nizamut Adawlut; but the judge or judges, by whom the proceedings shall be reviewed, shall exercise their discretion in requiring a futwah, or otherwise, as may appear to them expedient or necessary, excepting in cases in which exemption from the futwah is prescribed by the preceding paragraph.—Reg. VI., 1832, sec. vi.

### PROCEDURE IN CASES OF ALLEGED INSANITY.

27. The circumstance of supervening insanity, subsequent to the perpetration of a crime, at a time when no degree of derangement existed, and prior to the conviction of the prisoner for such crime, having been declared by the law officers, in a case of murder, to bar all capital or discretionary punishment, and to subject such person to deyut only in all such cases, viz. of a prisoner being afflicted with insanity subsequent to the commission of any crime, and of his subsequent perfect recovery, the law officers of the Nizamut Adawlut shall be called on to declare what the futwah would have been, if such derangement had not intervened, and the judge or judges sitting on the trial shall pass sentence under the general Regulations, and on consideration of all the circumstances of the case, the same as if no such malady had happened to the prisoner.—Reg. IV., 1822, sec. iv.

28. The rule contained in Section IV., Regulation XVII., 1817 (Nizamut Adawlut, paragraph 10), empowering two or more judges of the Nizamut Adawlut to convict and punish a prisoner charged with a criminal offence, in opposition to the acquittal of their law officers, shall be considered to extend to any case in which the futwah of the law officers of the Nizamut Adawlut may declare the legal penalty, or punishment generally, barred by reason of a doubt as to the prisoner's sanity when he committed the act charged; provided two or more judges of the Nizamut Adawlut, on due consideration of the evidence in such case, shall be satisfied that there is no sufficient ground to believe that the prisoner was insane when he committed the act so charged, and that he is a proper object of punishment.—Reg. IV., 1822, sec. vii.

29. No person who does an act which, if done by a person of sound mind, is an offence, shall be acquitted of such offence for unsoundness of mind, unless the Court or jury, as the case may be, in which, according to the constitution of the Court, the power of conviction or acquittal is vested, shall find that, by reason of unsoundness of mind, not wilfully caused by himself, he was uncon-

scious and incapable of knowing, at the time of doing the said act, that he was doing an act forbidden by the law of the land.—Act IV., 1849, sec. i.

30. Whenever a person charged with any offence shall be acquitted, because he is within the exception made by the foregoing paragraph, the Court or jury shall give a special judgment or verdict, that he did the act charged against him, being then of unsound mind, so as to excuse him according to law.—Act IV., 1849, sec. ii.

31. Whenever such special judgment or verdict, as aforesaid, shall have been given against any person, the Court, before which the trial was had, shall order him to be kept in safe custody, in such place and manner as to the Court shall seem fit, until the pleasure of the Government can be known thereon: and thereupon the Government may order such person to be kept in strict custody, for such time and in such manner as to the Government shall seem fit.—Act IV., 1849, sec. iii.

32. In all cases in which, before the passing of this Act, any person has been acquitted of any offence on the ground of insanity, lunacy, idiocy, or unsoundness of mind, such person may be kept in the same strict custody in which persons may be kept, who shall be hereafter acquitted, for unsoundness of mind.—Act IV., 1849, sec. iv.

33. No person, against whom any such special judgment or verdict shall have been given, shall be entitled to be discharged out of custody on being restored to soundness of mind, unless by order and at the discretion of the Government.—Act IV., 1849, sec. v.

34. Whenever it shall appear to the Government that any person imprisoned by the sentence of any Court is of unsound mind, the Government, by a warrant which shall set forth the grounds of belief that such prisoner is of unsound mind, may order the removal of such prisoner to a lunatic asylum, or other fit place of safe custody, there to be kept and treated as the Government shall order; and, when it shall appear to the Government that such prisoner has become of sound mind, the Government, by a warrant directed to the person having charge of him, shall remand such prisoner to the prison from which he was removed, if then still liable to be kept in custody, or if not, shall order him to be discharged out of custody.—Act IV., 1849, sec. vi.

NOTE.—The rules for the application of Mahomedan law in cases of conviction of particular crimes will be found under the head "SPECIFIC OFFENCES."

# CRIMINAL JUDICATURE.

## JAILS AND PRISONERS.

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# CRIMINAL JUDICATURE.

## JAILS AND PRISONERS.

### CONTROL AND SUPERINTENDENCE.

1. The whole control and superintendence over the several jails of the presidency of Fort William in Bengal, the prisoners confined in them, the establishments thereunto belonging, and the places of banishment or transportation of prisoners, shall be vested in the magistrates and joint magistrates, acting under the instructions of the zillah and city judges, and the magistrates, joint magistrates, and zillah and city judges, shall be guided in regard to all matters relating to the jails under their charge, the prisoners confined in them, the establishments thereunto belonging, and the places of banishment or transportation of prisoners, by such orders as they may receive from their respective local governments.—Reg. XVIII., 1844, secs. i. and ii.

### RECEPTION AND CUSTODY OF PRISONERS.

2. Any zillah or city magistrate shall be competent to give effect to the sentence of a general court-martial, adjudging imprisonment with hard labour among the convicts of the civil power, on the offender being delivered into his custody, and the sentence being certified to him for the purpose of his giving it effect, by the judge advocate-general, or his deputy, under the authority of the Commander-in-Chief; and the sentence so certified shall serve as the magistrate's warrant and authority for carrying it into effect according to the terms of it.—Reg. IV., 1820, sec. ii.

3. Whenever, under Act No. XXIII. of 1839 ("MILITARY COURTS," paragraph 4), any sentence of a court-martial shall adjudge imprisonment, or imprisonment with labour, for any offence, it shall be the duty of every judge, magistrate, sheriff, or other officer in charge of any jail, to give effect to such sentence on the offender being delivered into his custody, and on being furnished with a copy of the sentence by the officer commanding the division, garrison, regiment, or detachment, as the case may be, to which the offender belongs.—Act II., 1840, sec. i.

4. All sheriffs, jailers, and other persons having custody of any offender under sentence of a court-martial, shall obey and give effect to any warrant of the Commander-in-Chief, countersigned by a magistrate or judge of the Supreme Court as aforesaid, for the pardon and release of any offender in their custody respectively, or for the remission of any part of his sentence.—Act VI., 1850, sec. iv.

5. Within the territories subject to the Government of the East-India Company, and without the local limits of the jurisdiction of her Majesty's Courts of Judicature, the several officers in charge of jails shall be competent to give effect to any sentence that may be passed by any Court established, or that may be established by the authority of the Governor-General of India in Council, for the administration of criminal justice in states or territories administered by officers acting under the authority of the East-India Company, although such states or territories are not subject to the Government of Fort William in Bengal, or are not subject to the operation of the general Regulations.—Act V., 1847, sec. i.

6. A warrant under the official seal and signature of the officer or officers exercising criminal jurisdiction within such states or territories as aforesaid, shall be sufficient authority for holding any prisoner in confinement, or for transmitting any prisoner for transportation beyond sea, or for inflicting any other punishment prescribed therein.—Act V., 1847, sec. ii.

7. If any officer in charge of a jail shall entertain any doubt as to the legality of any warrant sent to him for execution under this Act, or as to the competency of the person or persons whose official seal and signature may be affixed thereto, to pass the sentence and issue such warrant, such officer shall refer the matter to the Government to which he is subject, by whose order on the case such officer, and all other public officers, shall be guided as to the future disposal of the prisoner, and that pending any such reference, the prisoner shall be detained in custody in such manner and with such restrictions or mitigations as may be specified in the warrant.—Act V., 1847, sec. iii.

8. The provisions of the existing Acts and Regulations, and all other rules in force for the

treatment and security of prisoners confined in the said jails, shall apply and be of equal force and effect in the case of prisoners confined therein under this Act, as in the case of other prisoners confined therein.—Act V., 1847, sec. iv.

9. When any person is under sentence of imprisonment within the territories under the Government of the East-India Company, by any authority other than that of one of the Supreme Courts of Judicature established by royal charter, the Governor, or Governor in Council, or other person administering the Government of the presidency or place, may order the removal of such prisoner from the prison or place in which he is confined to any other public prison or place of confinement within the same presidency or Government.—Act VII., 1850, sec. ii.

10. The time of removal from one prison to another, or while the prisoner is in custody under such warrant of removal, shall reckon as part of his imprisonment.—Act VII., 1850, sec. iii.

11. The magistrates of the several zillahs and cities shall transmit to the Government a list of the convicts in their respective jails who may have been sentenced to transportation or to banishment, specifying in such lists the names, ages, crimes, and sentences of the several convicts; and in the lists of those sentenced to banishment the district in which they may have usually resided before they were brought to trial.—Reg. LIII., 1803, sec. viii., cl. 4; and Act XVIII., 1844.

12. The Government, after receiving the list required by the foregoing paragraph, will issue the necessary directions for conveying to jail the convicts sentenced to transportation beyond sea, till an opportunity may offer for transporting them; and will also give the requisite instructions concerning the removal of the convicts under a sentence of banishment.—Reg. LIII., 1803, sec. viii., cl. 5; and Act XVIII., 1844.

### DISCIPLINE IN CRIMINAL PRISONS.

13. The magistrate is to visit the jail at least once in every month, and redress all well-founded complaints of ill-treatment which may be preferred to them by the prisoners against the jailer, or any officers havingcharge of them. He is to be particularly attentive to the health and cleanliness of the prisoners, and to see that the surgeon of the station attends and administers to the sick.—Reg. IX., 1793, sec. xx.

14. Separate apartments in the jail are to be allotted for the following description of prisoners:—

Prisoners under sentence of death.

Prisoners sentenced to confinement by the Sessions Court or the Nizamut Adawlut.

Prisoners committed to take their trial before the Sessions Court.

Prisoners sentenced to confinement by the magistrate for petty crimes or misdemeanors cognizable by him.

And as the crimes proved or alleged against the second or third descriptions of prisoners must be of different degrees of atrocity, the magistrates are required to separate those who have been found guilty or accused of heinous crimes from such as have been convicted of or charged with crimes of less magnitude. They are likewise to separate the male from the female prisoners, so as to prevent them having any communication with each other; and the rules prescribed in this paragraph for keeping apart the several descriptions of the former, are to be considered applicable also to the latter. The magistrates are further enjoined to endeavour to prevent drunkenness, gaming, and other immoralities being practised in the jails.—Reg. IX., 1793, sec. xxi.

15. All prisoners who may be exempted, or may be declared entitled to exemption from labour on payment of a fine, shall, as far as practicable, be kept separate, both in and out of the jail, from convicts under sentence of labour in irons; and magistrates and superintendents of prisoners and their subordinate officers, shall be careful to prevent all communication between the two classes.—Reg. II., 1834, sec. iii., cl. 2.

16. For the purpose of enabling the magistrates to maintain good order and discipline among the prisoners confined in the public jails or other authorized places of confinement, and to enforce a due observance of the prescribed rules by the employment of the prisoners under their charge, they are vested with authority to punish, on a summary inquiry, the offences specified in the following Sections of this Regulation.—Reg. XIV., 1816, sec. iv.

17. A contumacious refusal to work by any prisoner sentenced to hard labour, or though not so sentenced, who may be subject to labour, under any provision in the Regulations.—Reg. XIV., 1816, sec. v., cl. 1.

18. Wilful neglect and indolence in the performance of any prescribed work by a prisoner subject to labour, as described in the preceding paragraph, especially after previous admonition.—Reg. XIV., 1816, sec. v., cl. 2.

19. For the above offences the magistrate may cause the prisoner to be moderately corrected with a rattan; or in the instance of a prisoner's pertinaciously refusing to work, may likewise order his diet allowance to be reduced, in such degree as may be consistent with his support, until he shall perform the work required of him.—Reg. XIV., 1816, sec. vi., cl. 2.

20. Wilful disobedience to any of the written rules for the observance of prisoners and internal economy of a public jail, which may have been translated into the current language of the country, and suspended on a board within the jail for general information, as directed in the printed jail rules in force.—Reg. XIV., 1816, sec. v., cl. 3.

21. Refractory behaviour by prisoners; such as resistance to the jailor, guards, or other public officers, in the regular discharge of their proper functions; abusive language to any such officers; and generally any culpable behaviour towards them, which may not involve a serious act of criminality such as cannot be duly punished by the magistrates, and should therefore be brought before the Sessions Court.—Reg. XIV., 1816, sec. v., cl. 4.

22. Any other instance of disorderly conduct by a prisoner; such as riot, insurrection, attempt to escape, taking off or loosening, or attempting to loosen, by filing, cutting, or otherwise, his own irons, or those of other prisoners, with a view to escape; conspiring with other prisoners for the purpose of insurrection or escape, or for any other criminal purpose; abusing or assaulting another prisoner, and generally any misconduct committed by a prisoner whilst in custody, which, under the Regulations or Acts in force, or from its aggravated nature, may not exceed the competency of the magistrate, and therefore be more properly cognizable by the Sessions Court.—Reg. XIV., 1816, sec. v., cl. 5.

23. The offences specified in paragraphs 20 to 22 shall be punishable, according to the nature and circumstances of the case, by stripes with a rattan, not exceeding thirty, or by close, and as far as practicable, by solitary confinement; or when a prisoner may have attempted to escape, by the substitution of heavy fetters for those in ordinary use, by the temporary addition of neck chains of a moderate weight, when the prisoner may have been refractory or turbulent, or guilty of any act of violence, and in aggravated or emergent cases of this nature, by the further restraint of handcuffs, whilst such restraint, which is never to be imposed without necessity, shall appear to be requisite for the safeguard of the prisoner, or to prevent his doing mischief to others.—Reg. XIV., 1816, sec. vi., cl. 3.

24. In adjudging punishment on a summary inquiry, under the foregoing rules in paragraphs 19 and 23, due regard must be had to the nature of the offence, the condition of the prisoner, and every other just consideration applicable to the case.—Reg. XIV., 1816, sec. vi., cl. 1.

25. The powers above declared to be vested in magistrates may be exercised by joint magistrates and assistant magistrates, who are not stationed at the same place with the zillah or city magistrates, and who, under the general Regulations, are invested with the authority of magistrates, with respect to prisoners under their immediate charge. The zillah and city magistrates are further empowered to refer to their assistants at the sudder stations, any cases within the provisions of this Regulation, observing the rule that the order of reference shall direct, whether the assistant is to submit his proceedings for the magistrate's decision, or to pass his own determination on the case referred to him. If the assistant be authorized to determine the case referred to him, he is empowered to pass the same order as might have been passed by the magistrate, but his decision will be open to revision by the magistrate, if the latter see cause for it, as provided in Section XXI., Regulation IX., 1807 ("Magistrates," paragraph 125), with respect to all judgments passed by the assistant to a magistrate, who is not vested with the full powers of magistrate.—Reg. XIV., 1816, sec. vii.

26. It shall not be necessary to make a detailed record of the evidence, or of any part of the proceedings held in the summary inquiries authorized by Regulation XIV., 1816, nor shall it be requisite to examine witnesses upon oath or affirmation, except in cases of a serious nature, involving offences specifically provided for by the general rules in force for the administration of criminal justice. But a record shall be kept of every summary conviction and punishment, stating the name of the prisoner, the offence charged against him, the substance of the evidence and conviction, or the magistrate's personal view when the facts of the case may have taken place within his view, and the punishment ordered, with the date of the order, to be signed by the public officer by whom it may be passed.—Reg. XIV., 1816, sec. viii.

27. The rules contained in Section III., Regulation II., 1834 (Punishments, paragraphs 18, 19), respecting exemption from the punishment of labour, are not intended to interfere with the general discretion vested in the magistrates of imposing fetters, or otherwise restraining refractory prisoners under the provisions in force for that purpose, nor to exempt from a sentence of labour, with or without irons, convicts who, having been relieved therefrom under the provisions of that Regulation, may effect their escape from a gaol or other place of confinement, or from the custody of their guards, and may have been re-apprehended.—Reg. II., 1834, sec. iv.

28. The provisions of Clause First, Section II., Regulation II., 1834 (Punishments, paragraph 13), shall not exempt convicts sentenced to labour in irons from such moderate

corporal punishment during their imprisonment as may be unavoidable for the maintenance of the discipline of the gaols —Reg II, 1834, sec vi

29 It shall be competent to the Governor-General, by an order in council, to issue such orders as he may from time to time deem necessary for the introduction of a system of discipline into the gaols, calculated both to reform the convicts and to render their imprisonment efficacious, as an example to deter others from the commission of crime —Reg II, 1834, sec vii

30 Within the territories subject to the Government of the East-India Company, except within the local limits of the jurisdiction of the Supreme Courts, any convict sentenced to imprisonment for life, or to transportation for life, who does any act with the intention of thereby causing, or with the knowledge that he or she is likely thereby to cause, the death of any person, shall, upon conviction thereof, before the Sessions Court, subject to confirmation by the Sudder Court, be punished with death, or with transportation for life, or with corporal punishment not exceeding thirty-nine stripes, whether such convict does or does not by such act cause the death of any person —Act XVIII, 1845, sec i

31 Any such convict as aforesaid, who commits any offence whatever other than the offences mentioned in the preceding paragraph, or who is guilty of violent or disorderly conduct after having been punished by the order of the superintendent of the gaol, in which he or she is confined, shall, upon conviction thereof before the Sessions Court, subject, if the sentence be transportation for life, to confirmation by the Sudder Court, be punished with transportation for life, or with corporal punishment not exceeding thirty-nine stripes —Act XVIII, 1845, sec ii

DISCIPLINE IN CIVIL PRISONS

32 The magistrate is vested with authority to punish, on a summary inquiry, the offences specified in the following section of this Regulation, when the same are committed in the civil jail under his control —Reg III, 1826, sec iii

33 Refractory behaviour by any prisoner confined under process of the Civil Court, such as resistance to the jailor, guards, or other public officers in the regular discharge of their public functions, abusive language to any such officers, and generally any culpable behaviour towards them, which may not involve a serious act of criminality, such as cannot be duly punished by the magistrate, and should therefore be brought before the Sessions Court —Reg III, 1826, sec iv, cl 1

34 Any other instance of disorderly conduct by a prisoner, such as riot, insurrection, attempt to escape, conspiring with other prisoners with a view to escape, or for the purpose of insurrection, or for any other unlawful or prohibited purpose, abusing or assaulting another prisoner, and, generally, any misconduct committed by a prisoner whilst in custody, which, under the Regulations in force, or from its aggravated nature, may not exceed the competency of the magistrate, and therefore be more properly cognizable by the Sessions Court —Reg III, 1826, sec. iv, cl 2

35 The powers vested in the magistrate for the punishment of the offences specified in the preceding section (paragraphs 32, 33), which on a summary inquiry may appear to have been committed by any of the prisoners confined under civil process, are declared to be as follows, due regard being had to the nature of the offence, the condition of the prisoner, and every just consideration applicable to the case —Reg III, 1826, sec v, cl 1

36. The offences specified in the preceding section shall be punishable by close confinement, or by a reduction of the prisoner s allowance, for any term not exceeding two months, the allowance to be in no case reduced below what may be consistent with the prisoner s support, and the difference between the prisoner's full allowance and the reduced rate to be carried to the credit of Government as a fine —Reg III, 1826, sec v, cl 2

37 The rule for conducting such summary inquiries, and recording such sentences, and for their inspection by the session judge, shall be the same with that prescribed with regard to prisoners confined in the criminal jails, by Section VIII, Regulation XIV., 1816 (paragraph 25) —Reg III, 1826, sec v, cl 3

38 Provided, however, that nothing in this Regulation shall be construed to give the magistrate any jurisdiction whatever over the question of a civil prisoner s liability to confinement, or title to release, with reference to the civil process under which he may have been sent to jail, or to preclude the judge of the Civil Court, or his ministerial officers, European or native, authorized and deputed by him, from visiting the civil jail, or the judge from summoning any civil prisoner to his Court, upon matters connected with the civil process under which he is confined, or for other judicial purpose —Reg III, 1826, sec vi

WORK OF CONVICTS

39 It shall be competent to the Governor-General in Council to detain in the jail at Allipore, for any period which he may deem expedient, any convicts sentenced to transportation —Reg IX, 1813, sec ii, cl 2

40 The superintendent of the jail at Allipore is vested with authority to employ, in the repair of the public roads, or in other public works beyond the area of the jail, any of the convicts who are now, or may hereafter be sentenced to imprisonment for life in the jail at Allipore, and who may be subject to hard labour The superintendent will be careful to exercise this authority with due regard to the character and circumstances of the convicts, and will adopt suitable precautions to guard against their escape.—Reg. IV., 1823, sec. vii.

41 Persons sentenced to imprisonment for life in the jail at Allipore may be employed in the manufacture of articles for which a constant demand may exist at the presidency, or in such other labour as the superintendent of the jail may direct, subject of course to any instructions with which he may be at any time furnished on the question by the Governor-General in Council.—Reg. XIV., 1811, sec. ii, cl. 4.

42. Whenever it may be necessary, under the orders of Government, to collect any number of convicts together for the execution of public works, and such convicts cannot be supplied from the sudder station of the district in which their services may be required, the superintendents of police shall make application to the Government, stating the number of prisoners required, the work on which it is proposed that they should be employed, and the districts from which, in their opinion, they can be most conveniently supplied, and the Government shall determine on the expediency of the removal of the convicts, and issue such instructions on the subject as they may deem proper—Reg. XVII., 1816, sec. xviii

43. It shall be competent to the Governor-General in Council to vest superintendents of convicts employed on the roads and other public works, and assistants to such superintendents, with such powers as he may from time to time deem necessary to enable them to exert an efficient control over the convicts and the guards employed with them—Reg. IV., 1833, secs i. and ii.

44. If any convict under sentence of imprisonment shall, from his uniform good behaviour and industrious performance of the work assigned to him, or from his meritorious conduct in preventing the escape of other prisoners, or rendering any other public service, appear to the magistrate having charge of him to deserve a remission of the further punishment to which he may be liable under his sentence, or of any part of it, a report of the circumstances of the case, with a copy of the sentence passed upon the prisoner, shall be transmitted by the magistrate to the Government for their orders, as provided by Act XVIII, 1844—Reg. XIV., 1816, sec x., cl. 1, and Act XVIII, 1844.

45. In cases of short imprisonment, adjudged by the magistrate or his assistant, wherein the object would be defeated by the delay attending a reference, as directed in the preceding paragraph, the magistrate is empowered to order the discharge of a prisoner who may appear to deserve a remission of punishment on the grounds specified, provided that his reasons for every such order be recorded on his proceedings.—Reg. XIV., 1816, sec. x., cl. 2.

46. The magistrates shall be careful to prevent any maltreatment of prisoners by any of the native officers attached to their respective jails, or in charge of prisoners employed on the public roads All complaints of prisoners against the officers having charge of them shall be immediately inquired into by the magistrates, and if proved to be well founded, the offenders shall be liable to immediate dismission, besides a fine, not exceeding one month's salary, or imprisonment not exceeding six months; or when the offender may be a burkundaze, pyke, or other inferior officer, to imprisonment not exceeding one year—Reg XIV., 1816, sec ix, cl 2, and Reg II, 1834.

47. It is not of course intended that the foregoing paragraph should be considered applicable to any military guards, sepoys, or officers, or to persons of any denomination, who are subject to a military tribunal. In the event of any such persons being guilty of a neglect of duty, or other misconduct involving an offence cognizable by a court-martial, whilst employed in the custody of prisoners, the magistrate will continue to observe the rule prescribed for such cases in Section X, Regulation XI., 1806 ("MILITARY," paragraphs 261, 262)—Reg XIV., 1816, sec. ix, cl 3.

### ESCAPE OF PRISONERS.

48 Any convicts sentenced to imprisonment by the Sessions Courts or by the Court of Nizamut Adawlut, who during the period of their sentences may escape from jail, or other place of confinement, or from the roads or any other place where they may be employed, and who may be re-apprehended, shall be brought to trial before the Sessions Courts for such escape, as well as for any acts of violence or aggravating circumstances attending their escape, or for any violent acts done in an attempt to escape; and, on conviction, they shall be liable to such further punishment, in addition to their former sentences, as may be adjudged against them, on consideration of the circumstances of the case.—Reg LIII, 1803, sec ix, cl. 1

49. Any convict under sentence of transportation for life, who may be transported to any place beyond sea, and shall escape from such place of transportation, and return without

permission to Bengal, or to any part of the Company's territory under the presidency of Bengal, shall, on conviction thereof, to the satisfaction of the Nizamut Adawlut, and if no circumstances appear to that Court to render such convict an object of mercy, be adjudged to suffer death — Reg LIII, 1803, sec ix, cl 2

50 All guards, of whatever description, having the custody of convicts who escape, and who may appear on the magistrate's inquiry to have been guilty of wilful neglect, are to be immediately dismissed from the public service, and should any connivance or further criminality appear against them, are to be committed or held to bail, according to the circumstances of the case, for trial before the Sessions Court, that on conviction they may receive the punishment which the law directs.—Reg II, 1799, sec. vi.

51. The foregoing provision (paragraph 49) is extended to guards in charge of prisoners who may escape from their custody, whether before or after conviction; but shall not be considered applicable to military guards from the provincial battalions (while such battalions continue subject to military law), or from any regular corps of the army.—Reg XI, 1806, sec x., cl. 2.

52. The cases of convicts, or of prisoners ordered to be confined till they give security for good behaviour, who may effect their escape, while under sentence or order of imprisonment, from a jail or other place of confinement, or from the custody of their guards, shall be cognizable by the magistrate, and upon conviction, the magistrate shall be empowered to sentence the offenders to imprisonment not exceeding one year in commutation for corporal punishment, and (if sentenced to a limited period of imprisonment) to suffer such further period of imprisonment beyond the unexpired term of their original sentence as he may judge proper, provided, however, that such additional imprisonment shall in no case exceed the period of two years If the prisoner be in confinement under an order to find security for good behaviour, he may be sentenced to imprisonment for a specific term not exceeding two years.—Reg. XII, 1818, sec. v., cl 1; and Reg. II., 1834.

53 The cases of prisoners apprehended and detained in custody under examination on charges of a criminal nature, but not admitted to bail, who may effect their escape from a jail or other place of confinement, or from the custody of their guards, shall also be cognizable by the magistrates, and such prisoners being duly convicted of the offence in question, shall be liable to a sentence of imprisonment in no case exceeding six months.—Reg XII, 1818, sec v, cl 2.

54 The rules contained in the two preceding paragraphs shall not, however, be considered applicable to the cases of convicts or other prisoners, who, in effecting their escape, or in attempting to effect their escape, shall be guilty of such a degree of violence towards their guards or other individuals as may in its consequences involve the death, wounding, or severe personal injury of any person or persons. In all cases of that nature it shall be the duty of the magistrate to commit the offender to take his trial before the Sessions Court.—Reg. XII, 1818, sec. v, cl 3.

55. The zillah and city magistrates shall communicate to the superintendents of police of their respective divisions all instances of convicts breaking jail, before the expiration of the period of their sentences, as well as every instance in which a prisoner in custody, during examination or commitment for trial, or under requisition of security for good behaviour, may effect his escape, transmitting, for the information of the superintendents of police, a copy or extract of the proceedings holden by them on such occasions, together with information of the measures taken to re-apprehend the persons who have escaped, stating, at the same time, whether, in their opinion, it may be advisable to offer any reward for the re-apprehension of such persons, and if so, the amount of such reward —Reg. XVII, 1816, sec xiv., cl. 2.

56. If the superintendent of police should be of opinion that the re-apprehension of the offender or offenders may be effected without the offer of a reward, he will employ, in concert with the local magistrate, the means which he may consider best adapted to that purpose, but should he deem the offer of a reward expedient, he will in like manner adopt the necessary measures for giving publicity to the same, provided, that whenever the reward proposed to be offered for the re-apprehension of any individual shall exceed the sum of one hundred rupees, the sanction shall be previously obtained of such officer as may be empowered by the Government to authorize the grant of rewards, in cases, however, in which heinous offenders may have escaped, or on occasions of emergency, the magistrates shall exercise a discretion in offering a reward not exceeding the sum of one hundred rupees, reporting the offer for the confirmation of the superintendent of police. —Reg XVII., 1816, sec. xiv., cl. 3, Act XVI., 1843.

57 All proceedings of magistrates in regard to the escape of prisoners, as well as any proceedings respecting the conduct of the guards from whose custody the escape has been effected, are to be submitted for the inspection or orders of the judge.—Reg XVII, 1816, sec. xiv., cl. 1; and Act XVIII, 1844.

NOTE —See Rules for Issue of Proclamation for Apprehension of Convicts who have broken gaol, &c, in Reg III, 1812, under the title "POLICE," head, "Responsibilities and Duties of Landholders and Others"

# CRIMINAL JUDICATURE.

## POLICE.

### TABLE OF ENACTMENTS.

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| xxxvii. | | Rescinded by cl. 1, sec. ii., Reg. XX., 1817. |
| xxxviii. | 306 | |
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| ix. 8. | | Repealed by Act XVIII., 1835. |
| 1808. X. ii., iii. | | Superseded by Act XXIV., 1837. |
| iv. | | Rescinded by sec. iii., Reg. XIV., 1811. |
| vi. to ix. | 8, 11 to 13 | |
| x. | | Unnecessary; rescinds only. |
| 1809. VIII. v. 1. | | Superseded by Act XXIV., 1837. |
| v. 2 to 5. | 36, 45 to 47 | Part of cl. 2 superseded by Act XXIV., 1837. |
| vi., ix. | | Superseded by later rules. |
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| xi. 12 to 15. | | Superseded by sec. xvi., Reg. XX., 1817. |
| VII. ii., iii. | | Rescinded by cl. 1, sec. ii., Reg. XX., 1817. |
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| viii. | | Rescinded by cl. 1, sec. xxvii., Reg. XX., 1817. |
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NOTE.—The forms referred to in the rules included in this division are generally omitted, as they are liable to be altered by the Sudder Court, under the authority vested in them by sec. iii., Reg. VII., 1829, and sec. ii., Act XVII., 1841.

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# CRIMINAL JUDICATURE.

## POLICE.

### ESTABLISHMENT AND JURISDICTION.

1. The police of the country is under the exclusive charge of the officers who may be appointed to the superintendence of it on the part of Government. Landholders and farmers of land are prohibited entertaining establishments of police officers, unless specially authorized so to do by the Governor-General in Council.—Reg. XXII., 1793, sec. ii.; Reg. XVIII., 1805.

2. The magistrates are to divide their respective zillahs, including the rent-free lands, into police jurisdictions. Each jurisdiction is to be ten coss square, except where local circumstances shall render it advisable to form all or any of the jurisdictions of greater or less extent. The guarding of each jurisdiction is to be committed to a darogah or superintendent, with an establishment of officers. The darogahs with their establishments are to be stationed in the centre of their respective jurisdictions; unless for special reasons it shall be thought expedient, in particular instances, to fix them in any other situation: and the magistrates are directed to endeavour to form the jurisdictions in such a manner as to bring the principal towns, bazars, and gunges in the centre of them, that the police establishments may serve for the protection of these principal places, as well as the circumjacent country.—Reg. XXII., 1793, sec. iv.

3. The police jurisdictions are to be numbered, and to be named after the places at which the darogahs and their establishments may be stationed. The magistrates are not to change the names or numbers of the jurisdictions, nor to alter the limits of them, without the sanction of the Governor-General in Council.—Reg. XXII., 1793, sec. v.

### POWERS AND DUTIES OF THE SUPERINTENDENT OF POLICE.

4. It shall be lawful for the Governor of the presidency of Fort William in Bengal to appoint a superintendent of police for the territories under his government, or for any part thereof, and for the Lieutenant-Governor of the North-West Provinces to appoint a superintendent of police for those provinces, or for any part thereof; and such superintendent shall be guided in the execution of the duties of his office by the rules contained in Regulation X., 1808, and other Regulations of the Bengal code, subsequently enacted, in regard to the said office, in so far as they may not be modified or repealed.—Act XXIV., 1837, secs. i. & ii.

5. The power to revise orders passed by the zillah or city magistrates regarding the appointment, suspension, and removal of any ministerial or police officer subordinate to such magistrate, is vested in the superintendents of police; and the orders passed on such revision by the superintendent of police shall not be open to revision by the Sessions Court or the Nizamut Adawlut. —Act XXIV., 1837, secs. iv. to vi.; Act XXXI., 1841, sec. vii.

6. It shall be competent to the Governor-General in Council, whenever he may deem it advisable, to invest any superintendent of police with the office of magistrate in any zillah or city, or in any part thereof.—Reg. XVI., 1810, sec. ii., cl. 3.

7. The Governor-General in Council reserves to himself a discretion of placing any part of the police or other public establishments under the immediate control of the superintendents of police, who have concurrent jurisdiction with the several magistrates in the zillahs and cities of their respective divisions.—Reg. XVI., 1810, secs. xi. & xii.

8. The superintendent of police is empowered to execute his warrants, and other process, in the form prescribed by the Regulations, either by means of his own officers, or through the local authorities, as he may judge proper. The several zillah and city magistrates, and all persons acting under them, are required to aid and support the officers of the superintendent of police in the execution of any warrant or other process issued by him under his seal and signature; and resistance to any process so issued is declared to be punishable, in like manner as provided by the Regulations for resistance to the process of a zillah or city magistrate.—Reg. X., 1808, sec. vi.

9. In cases in which the execution of sentences which may be passed by the superintendents on offenders cannot conveniently be carried into effect under their immediate directions, they are

authorized to certify all such sentences to the magistrate of the district in which the offence may have been committed; and the magistrate to whom such application may be addressed is required to carry the sentence of the superintendent into execution, in the same manner as if it had been passed by the magistrate himself.—Reg. III., 1812, sec. v., cl. 1.

10. In cases in which persons may be committed or held to bail by the superintendents of police for trial before the Sessions Courts, and the said superintendents may not conveniently be able to superintend the conduct of such prosecutions themselves, it shall be competent for them to certify the order regarding the trial to the magistrate of the district in which the offence may be alleged to have been committed; and the magistrate, on receipt of such application, shall then superintend the conduct of the prosecution before the Sessions Court, in the same manner as if the accused party had been committed or held to bail by the magistrate himself.—Reg. III., 1812, sec. v., cl. 2.

11. The superintendent of police is authorized to correspond, either publicly or secretly, with the officers of Government in every department, upon subjects connected with the discharge of the duty committed to him; and all public officers are directed to furnish the superintendent with any information they may possess upon such subjects, as well as generally to co-operate with him, and to afford every assistance in their power to enable him to accomplish the objects of his appointment.—Reg. X., 1808, sec. vii.

12. The superintendent of police shall communicate immediately with the Governor-General in Council, through the secretary in the judicial department, upon all matters connected with his office; and shall act under such instructions as may, from time to time, be transmitted for his guidance by the order of Government.—Reg. X., 1808, sec. viii.

13. The superintendent of police shall also be considered under the general authority of the Court of Nizamut Adawlut, in all matters relative to the police; and upon any point not expressly provided for by the Regulations or by the orders of Government, shall be guided by the instructions of that Court.—Reg. X., 1808, sec. ix.

14. The primary object of the appointment of superintendents of police being the apprehension of dacoits, cozauks, thugs, budecks, and other descriptions of public offenders, guilty of the commission of robberies and other crimes by open violence, the said superintendents shall from time to time proceed into the different zillahs, or to any of the cities comprised within the limits of their respective jurisdictions, according as they may themselves deem necessary and proper, or as the Governor-General in Council, or Vice-President in Council, may direct: provided, however, that nothing contained in this paragraph shall be construed to prevent the superintendents from exercising the full powers of their offices throughout the whole extent of their jurisdictions, in whatever part of it they may at any time be resident.—Reg. VIII., 1810, sec. iv.

15. It shall be the duty of the superintendents to keep themselves constantly informed, by communication with the local magistrates, with the darogahs of police, and with the zemindars and others, and by every other practicable means of inquiry, of the actual state of the police in the several zillahs and cities comprised within their respective jurisdictions, and submit to Government any information respecting the prevalence of public offences in any of those zillahs or cities, or on other points appearing to the superintendents to require the interposition of Government.—Reg. VIII., 1810, sec. v.

16. The magistrates of the several zillahs and cities are enjoined to afford every aid and co-operation to the superintendents of police and to their respective officers in the discharge of the duties vested in them.—Reg. VIII., 1810, sec. vi.

17. The superintendents of police are competent to remove or appoint any ministerial native officer employed upon their respective establishments whenever they may see sufficient cause; and all such appointments or removals shall be final.—Reg. XVII., 1816, sec. x.

18. A general register of all establishments of police guards (whether permanent or temporary) which may be entertained at the charge of Government, shall be prepared and kept up by the superintendents of police for their respective divisions, according to such form as may be judged most convenient, exhibiting the description, strength, distribution, and expense of all such guards or establishments entertained within the provinces dependent on the presidency of Fort William.—Reg. XVII., 1816, sec. ii., cl. 1.

19. The several zillah and city magistrates shall furnish the superintendents of police with such information as may be required to enable the superintendents, in concert with those officers, to enter upon a complete and accurate revision of the police establishments of the several zillahs or cities, and to prepare and submit to Government, on as reduced a scale as may be practicable without hazard to the public safety, a revised statement of police establishments for each district comprised within their respective jurisdictions.—Reg. XVII., 1816, sec. ii., cl. 2.

20. The superintendents of police will regularly submit to Government, with their annual police reports, or as soon after the transmission thereof as may be practicable, an abstract statement, exhibiting a comparative view of the strength and expense of all descriptions of police

establishments entertained, during the two preceding years, in the several districts situated within their respective jurisdictions, together with a separate address, explanatory, on the one hand, of any temporary or local increase in such establishments which circumstances may have rendered necessary, or suggesting, on the other, any further reductions in the strength of those establishments which the ameliorated state of the police, the progressive introduction of subsidiary police arrangements, or other circumstances, may appear to admit.—Reg XVII, 1816, sec iii.

21 The superintendents of police will also submit to Government an annual report respecting the state of all subsidiary police establishments which may have been, or which may hereafter be, entertained on the principles of the provisions of the Regulations. The local magistrates are strictly enjoined to give the utmost attention to the due organization and proper maintenance of such establishments, in conformity with those provisions, and vigilantly to guard against any relaxation of control, either in respect to the conduct of the individuals composing such establishments, or of those who may be intrusted with the realization and payment of the stipends of the chokeedars; and it shall be the special duty of the superintendents of police to bring under the notice of the local magistrates, and, if necessary, of Government, any material deviation from the existing provisions which may prevail, whether partially or otherwise, in respect to those establishments, as well as to offer any suggestions which, from experience, may appear calculated to extend and to confirm the benefits contemplated by their institution.—Reg XVII, 1816, sec iv.

22. In order to enable the superintendents of police to furnish the annual report to Government required by the preceding paragraphs, the several zillah and city magistrates shall supply any information relating to the establishments in question which the superintendents may require, and shall likewise conform to any suggestions of those officers, in respect to the organization and management of the said establishments, which may be consistent with the tenor and spirit of the Regulations —Reg XVII, 1816, sec v.

23. The superintendents of police are competent, in the same manner and to the same extent as the local magistrates, to impose fines on any cutwal, police darogah, or other subordinate officer of the police establishments stationed within the limits of their respective jurisdictions.—Reg XVII, 1816, sec. xi, cl. 1.

24 The superintendents of police are likewise competent to suspend from office any cutwal, darogah, or other subordinate officer of the police establishments of their respective jurisdictions, during any inquiry which they may judge proper to institute in regard to the conduct of such officers, and also for neglect or failure to furnish information, or to obey orders issued to them by the superintendents of police.—Reg XVII., 1816, sec xi., cl 2.

25. Whenever the superintendents of police may deem it necessary, in the discharge of their duties, to fine or suspend any of the public officers above specified, they shall communicate an extract from their proceedings, with a copy of the order passed by them, to the local magistrate, who will proceed to realize the fine in the same manner as if it had been imposed by the magistrate himself, or to carry into effect the superintendents' order of suspension, and to supply the vacancy occasioned thereby —Reg XVII., 1816, sec xi, cl. 3.

26. Should the superintendents of police, on visiting any district of their respective jurisdictions, deem it advisable to take under their immediate charge, for the purpose of exercising temporarily the powers of magistrate, any police thannah or thannahs of such district, they will make the necessary application for that purpose to the local magistrate, who will comply with all requisitions to that effect from the superintendents of police, without awaiting any specific orders from Government, and the zillah or city magistrates shall not be considered to be authorized, without the special sanction of Government, to exercise any concurrent jurisdiction in such thannah or thannahs, except in the cases provided for in Section XVI, Regulation XXII., 1793, or the enactments extending those provisions (" MAGISTRATES," paragraph 9) —Reg XVII, 1816, sec xii.

27. All correspondence of the zillah and city magistrates relative to the strength, distribution, or expense of their police (whether temporary or permanent), or respecting any alteration of police stations, or of their local boundaries, and generally all correspondence of those officers with the Government, which may have reference to arrangements or matters of police, shall hereafter be conducted through the offices of the superintendents of police.—Reg. XVII., 1816, sec. xiii.

### SUPERINTENDENT OF POLICE IN THE CAMP OF THE GOVERNOR-GENERAL, THE COMMANDER-IN-CHIEF, OR THE LIEUTENANT-GOVERNOR OF THE NORTH-WESTERN PROVINCES.

28 As often as the Governor-General of India, or the Commander-in-Chief of all the Forces in India, or the Lieutenant-Governor of the North-Western Provinces, shall pass through any part of the territories of the East-India Company, attended by a camp, it shall be lawful for the Governor-General of India in Council, by an order in council, to appoint a superintendent of the police of such camp —Act XXVI, 1836, sec. i.

29. With respect to all offences committed in any such camp, or on the line of march between the stations of any such camp, such superintendent shall have concurrent criminal jurisdiction with the magistrate of the zillah or city within which such offence shall have been committed.—Act XXVI., 1836, sec. ii.

30. As often as the said superintendent shall, by virtue of the powers conferred on him by the preceding paragraph, commit any person for trial before the Sessions Court, or sentence any person to imprisonment, it shall be lawful for the said superintendent to transmit such person to the magistrate of the zillah or city where the camp shall then be, with a copy of the commitment or sentence, under the hand of him the said superintendent, and the said magistrate shall give effect to such commitment or sentence.—Act XXVI., 1836, sec. iii.

31. All officers subordinate to the magistrate of the zillah or city where such camp shall be, shall be assisting to the said superintendent in the exercise of the powers conferred on him by this Act, in the same manner as they are bound to be assisting to the said magistrate.—Act XXVI., 1836, sec. iv.

### APPOINTMENT AND REMOVAL OF NATIVE POLICE OFFICERS.

32. The magistrates are empowered to appoint darogahs and other subordinate officers of police, to remove them from one station to another, and to suspend and dismiss them from office for neglect, misconduct, or incapacity, subject to the orders of the superintendent of police, whose decision shall be final, unless the Governor-General in Council shall see reason to issue special orders on any cases. No person is to be appointed a darogah without giving security for his appearance in the amount of Rs. 1,000; himself in Rs. 500, and two responsible persons in Rs. 250 each.—Reg. XXII., 1793, sec. vi.; Reg. XVII., 1816, sec. vii., cl. 1; Reg. XX., 1817, sec. iii., cls. 1 & 2; Reg. XI., 1831, sec. viii.

33. The magistrate will furnish to each police-officer, on his appointment, a written document under his official seal and signature, specifying the station to which the officer is appointed, and requiring him to perform the duties of it, in conformity with the Regulations.—Reg. XX., 1817, sec. iii., cl. 3.

34. The zillah and city magistrates are required to record, upon their proceedings, the grounds upon which any native officers may be removed by them under the provisions of this Regulation, and to select proper persons to fill all vacancies in the situations of such officers, and to continue in office the persons appointed, whether by themselves or by their predecessors, whilst they discharge the duties assigned to them with diligence and integrity.—Reg. XVII., 1816, sec. vii., cl. 3.

35. The superintendent of police shall exercise all the powers which were formerly exercised by the judges or commissioners of circuit in regard to the appointment, suspension, and removal of any ministerial or police officer subordinate to any zillah or city magistrate or joint magistrate, and the orders of the superintendent of police in regard to such appointments, suspensions, and removals, shall not be open to revision by the Nizamut Adawlut.—Act XXIV., 1837, secs. iv. & vi.; Act XXXI., 1841, sec. vii.

36. No appointment to the office of cutwal or police darogah shall be considered final till confirmed by the superintendent of police, under the authority vested in him; but the magistrate is authorized to make temporary appointments of persons duly qualified to perform the duty of cutwal or police darogah in cases of death, removal, suspension, or resignation, immediately reporting the same for the information of the superintendent of police.—Reg. VIII., 1809, sec. v., cl. 2; Act XXIV., 1837, sec. iv.

37. The zillah and city magistrates shall submit to the superintendent of police, for his information, a list of all persons whom they may have appointed to the offices of cutwal or police darogah, specifying their names, ages, past employments, characters, and qualifications.—Reg. XVII., 1816, sec. vii., cl. 4.

38. In the event of any officer of the descriptions noticed in the preceding paragraph deeming himself aggrieved by any order passed by a zillah or city magistrate with respect to his dismission from office, he shall be at liberty to present a petition to the superintendent of police, setting forth the circumstances of his case, and grounds of complaint.—Reg. XVII., 1816, sec. vii., cl. 5.

39. On perusal of a petition of the description specified in the preceding paragraph, the superintendent of police, if he deem proper, may require the magistrate to submit the proceedings holden on the case for his inspection, accompanied by any explanation, in the English language, which the magistrate may be desirous to offer.—Reg. XVII., 1816, sec. vii., cl. 6.

40. After consideration of the papers furnished, should the superintendent of police be of opinion that the powers vested in the magistrate by the preceding clauses of this section have been perverted, he shall submit the proceedings to the Court of Nizamut Adawlut.—Reg. XVII., 1816, sec. vii., cl. 7.

41. All deaths, resignations, removals, or appointments in the office of a cutwal or darogah of police, shall be communicated by the magistrates to the superintendents of police, in such form as the superintendents may deem convenient and proper; in order, not only that the registers of police establishments may be kept correct, but that any cutwal or police darogah who may have been dismissed from his office on conviction before the Sessions Court or Nizamut Adawlut of corruption, or of any other criminal offence declared to be punishable by dismission from office, may be precluded from being again employed in any similar situation elsewhere.—Reg. XVII., 1816, sec. ix., cl. 1.

42. If any case of this nature should come under the observation of the superintendents of police, it will be their duty to communicate the requisite information to the zillah or city magistrate, in order that the cutwal, darogah, or other police officer who may have been appointed under the circumstances described in the latter part of the preceding paragraph may be immediately removed from his situation.—Reg. XVII., 1816, sec. ix., cl. 2.

43. The removal of a police officer shall not be considered to preclude the future employment of such person in any other situation in the public service for which he may be deemed duly qualified, except in the cases of conviction described in paragraph 41.—Reg. XVII., 1816, sec. ix., cl. 3.

44. The Courts of Sessions and the Nizamut Adawlut may order the removal of any police officer who may be convicted of a criminal offence, if the conduct of such officer appear, from any proceedings before the said Courts, to be such as to require his removal from the public situation held by him, and it shall be the duty of the magistrate to take measures for the appointment of a successor to the vacant office, in conformity with the Regulations.—Reg. XXV., 1814, sec. xv.; Reg. XVII., 1816, sec. vii., cl. 8.

45. Whenever a cutwal or police darogah may be desirous of resigning his office, his resignation shall be received and recorded by the magistrate in open Court, and shall be transmitted, without delay, to the superintendent of police, with the nomination of a proper person to be his successor.—Reg. VIII., 1809, sec. v., cl. 3.

46. When a magistrate shall see cause for the removal of any cutwal or police darogah, on the ground of misconduct, neglect of duty, experienced incapacity, or other disqualification, such magistrate shall report the circumstances of the case, with his opinion on the subject, to the superintendent of police, who will pass such order as may appear proper on the report so made, or call for further information, or direct any further inquiry which the nature and circumstances of the case may require.—Reg. VIII., 1809, sec. v., cl. 4.

47. In cases of gross misconduct, neglect, or incapacity, such as to require the immediate suspension of a police officer, the magistrate is authorized to order the same, reporting it, with the other information required from him, to the superintendent of police. He may also, in addition to the general powers vested in him by the Regulations for the punishment of any specific crime or misdemeanor, fine any officer of police under his authority for neglect of duty, in a sum equal to one month's salary, and cause the same to be levied by a stoppage of the fixed allowance payable to such officer. Police officers of every denomination, as well as all other native officers in the service of Government, will be liable to removal from the public trusts committed to them without proof of any specific act of criminality, whenever there may be sufficient reason to believe them incapable or neglectful of their prescribed duties, or in any respect unworthy of public confidence. —Reg. VIII., 1809, sec. v., cl. 5.

48. If the darogah of a jurisdiction, or any officer under his authority, shall be guilty of corruption, extortion, or oppression, or commit any act repugnant to the Regulations, the party injured is permitted to prosecute him, either criminally, before the Sessions Court, or for damages in the Dewanny Adawlut. The judges of the above-mentioned Courts are required to take cognizance of all such prosecutions or suits as may be brought before them under this Regulation, and to pass such sentence or decree as may appear to them equitable, upon a consideration of the circumstances of the case.—Reg. XXII., 1793, sec. xxii.

## DUTIES OF NATIVE POLICE OFFICERS.

### *Relative Rank and general functions of Officers on the Thannah Establishment.*

49. The darogahs of police shall exercise a general control over the mohurers, jemadars, and burkundauzes attached to their respective thannahs; it shall be the duty of a darogah, or other officer of police in charge of a thannah, to conform to all instructions he may receive from the magistrate to whom he may be subordinate; to preserve the peace within the limits of his jurisdiction; to report to the magistrate all occurrences connected with the police which may come to his knowledge; to prevent, as far as possible, the commission of all criminal offences; to discover and

apprehend offenders; to execute process, and obey all orders transmitted to him by the magistrate, and to perform such other services as are prescribed in the Regulations.—Reg. XX., 1817, sec. iv., cl. 1.

50. The mohurer shall be considered the second officer at a thannah, and in the absence of the darogah from his station shall exercise the powers vested in that officer by the provisions of this Regulation. It shall be the special duty of the mohurer to preserve the records of the thannah, and to write the reports and other papers, under the direction of the darogah.—Reg. XX., 1817, sec. iv., cl. 2.

51. The jemadar shall be considered as the third officer at a thannah, and in the absence of the darogah and mohurer from the thannah station shall exercise the same powers as are vested in the darogahs of police by the provisions of this Regulation. The police jemadars, whether stationed at the thannahs, or at outposts, shall act under the orders of the darogah of the division, and shall see that the burkundauzes are in attendance at their posts, that their arms and accoutrements are kept in a state of efficiency, and that all prisoners and property brought to the thannah are duly guarded during the time they may remain under the custody of the police burkundauzes attached to the station.—Reg. XX., 1817, sec. iv., cl. 3.

52. The officers of police, in pursuance of Sections VI. and VII., Regulation X., 1808 (paragraphs 7 and 10); Sections VIII., XI., and XII., Regulation XVI., 1810 ("MAGISTRATES," paragraph 117 and paragraph 6); and Section XI., Regulation XVII., 1816 (paragraphs 22 to 24), are required to aid and support the superintendents of police, and the joint and assistant magistrates to whom they may be respectively subordinate, in the execution of any process issued by them under their official seals and signatures; also to furnish the superintendents of police, and the joint and assistant magistrates, with every information required from them, as well as generally to obey all orders issued to them by the superintendents of police, and by the joint or assistant magistrates, on pain, in case of neglect or failure, of being fined, suspended, or dismissed from office, under the authority, or at the representation of the superintendent of police, or joint or assistant magistrate, according to the provisions established by the general Regulations for the punishment of offences of that description.—Reg. XX., 1817, sec. iv., cl. 4.

*Rules regarding the use of a Seal of Office at each Thannah, and the Badges, Arms, and Accoutrements of the Police Burkundauzes.*

53. All cutwals and police darogahs shall henceforward use a brass seal of office, an inch in diameter, and made after the form described in the margin, the name of the cutwalee or thannah, and the name of the city or zillah in which it may be included, being engraved on the surface of the seal.—Reg. XX., 1817, sec. v., cl. 1.

54. The police burkundauzes shall wear brass badges, engraved with the name of the police-station, and of the district in which they may be employed, and shall be armed with a spear, and a sword and shield, or with a matchlock, sword and shield, or with a spear and matchlock, as circumstances may render expedient; they shall also be uniformly dressed in such manner as may be prescribed by the Court of Nizamut Adawlut through the superintendent of the police.—Reg. XX., 1817, sec. v., cl. 2.

*Powers and Duties of Police Officers employed at Outposts.*

55. In modification of Sections VI. and VII., Regulation XIV., 1807, the magistrates are authorized to exercise the power of stationing any portion of their police thannah establishments (not exceeding one-third of the entire establishment) at any chokee, village, ghaut, highway, or other place within the limits of the thannah to which such establishments may appertain; reporting always the particulars, as well as the grounds of the arrangement, for the information of the superintendent of police of the division.—Reg. XVII., 1816, sec. viii., cl. 1.

56. Police officers stationed, with the sanction of the zillah or city magistrate, at any chokee, village, ghaut, highway, or other place within the limits of a thannah, shall be guided by the following rules.—Reg. XX., 1817, sec. vi., cl. 1.

57. Jemadars, burkundauzes, and other police officers stationed at outposts, or subordinate chokees, shall act under the control of the darogah or head police officer of the thannah to which they may be attached, and shall afford their aid for the prevention of crimes, the apprehension of criminals, and generally for the preservation of the peace, and shall report to the thannah all occurrences relating to matters of police which may come to their knowledge.—Reg. XX., 1817, sec. vi., cl. 2.

## POLICE.—DUTIES OF NATIVE POLICE OFFICERS.

58. The officers of police stationed at outposts shall be competent to apprehend, without a written charge or warrant, persons found in the act of committing a breach of the peace, or against whom a hue and cry shall have been raised, or who shall be detected with stolen goods in their possession, or who may be liable to apprehension, under the rules in force, as proclaimed, or notorious robbers, or vagrants, without any ostensible means of subsistence; but no person shall be arrested by the subordinate officers of police except in cases of the nature above noticed, unless under the special warrant of the magistrate, or of the darogah of the thannah to which the outpost may be attached.—Reg. XX., 1817, sec. vi., cl. 3.

59. Persons apprehended by the subordinate establishments of police shall be forwarded immediately to the thannah to which the outpost may belong, accompanied by an explanation of the circumstances of the case, and of the causes which may have led to the apprehension of the prisoner.—Reg. XX., 1817, sec. vi., cl. 4.

### *Rules regarding the application of Police Officers for leave of absence, and deputation of Burkundauzes to the Sudder Station.*

60. Any police darogah, mohurer, or jemadar, applying for leave of absence, shall name an individual, for the approval of the magistrate, to officiate for him during his absence, and the person who may be appointed to act shall receive, during his absence, the entire allowances of the police officer for whom he may officiate, or such part thereof as the magistrate shall, in each instance, judge it proper to fix. The burkundauzes shall submit their applications to the magistrate through the darogahs; and the persons nominated to act during their absence shall receive the entire salaries of the individuals for whom they may officiate, or such part thereof as may be fixed by the magistrate. In the event of the absentee's exceeding the period of his leave, the darogah shall report the circumstance for the orders of the magistrate.—Reg. XX., 1817, sec. vii., cl. 1.

61. Whenever a burkundauze may be despatched to the Magistrates' Court, the jemadar or other police officer by whom he may be despatched shall deliver to him a certificate, showing the name of the burkundauze, and the date and time of his despatch, agreeably to the first three columns of the Form No. 1 of the Appendix.—Reg. XX., 1817, sec. vii., cl. 2.

62. On the arrival of the burkundauze at the sudder station, he shall proceed to the nazir of the Foujdary Court, who will insert in the fourth column of the paper the date and hour of his arrival, and in the event of any unnecessary delay appearing on comparing the date of his despatch from the thannah with that of his arrival at the sudder station, will report the circumstances to the magistrate.—Reg. XX., 1817, sec. vii., cl. 3.

63. On the departure of the burkundauze from the sudder station, he shall again proceed to the foujdary nazir, who will note in the fifth column the date and time of his departure, and on his arrival at the thannah station the certificate shall be delivered up to the darogah, mohurer, or jemadar, who, in the event of the burkundauze having loitered on the road, will report the particulars for the orders of the magistrate.—Reg. XX., 1817, sec. vii., cl. 4.

### *Records to be kept and preserved at the Thannah.*

64. The police darogahs and mohurers are enjoined to bind up, separately from all other records, and to preserve with care, the several Regulations of Government which may be sent to their respective thannahs; and they shall also cause the same to be publicly read for general information, and shall take every favourable occasion of promulgating the rules therein contained. —Reg. XX., 1817, sec. viii., cl. 1.

65. The books and registers alluded to in the following clauses of this section shall be kept up with regularity at the several police thannahs; and darogahs and mohurers, on their appointments to police stations, are required to inspect the records, and to report to the magistrates on the general state of the thannah papers, within ten days after receiving charge. Every police darogah, or thannah mohurer, receiving charge of the records of a police station, shall sign a list of the records delivered over to him, which also shall be signed by the officer delivering over charge; and the list so authenticated by their joint signatures shall be transmitted to the magistrate. An exact counterpart, authenticated in the same manner, shall also be kept at the thannah. The magistrates and their assistants, and the joint magistrates who may occasionally visit the thannahs, shall avail themselves of any opportunities that may offer to inspect the records, and in the event of their being found deficient, or of any gross neglect in the care of them, the police darogah and mohurer who may appear culpable will be liable to dismission, or to a fine, according to the circumstances of the case.—Reg. XX., 1817, sec. viii., cl. 2.

66. The police darogahs shall severally be furnished with blank books for diaries, each book

containing 100 pages, to be signed and numbered by the magistrate's assistant, if on the spot, or in his absence by the serishtadar, or other head ministerial officer of the Magistrates' Court.—Reg. XX., 1817, sec. viii., cl. 3.

67. Every occurrence which may be brought to the knowledge of the officers of police shall be entered in the thannah diary on the day on which the event may be communicated to the thannah; and if no incident shall be communicated, it shall be so noted in the diary.—Reg. XX., 1817, sec. viii., cl. 4.

68. The darogahs shall enter in their diaries the names of all persons whom they may apprehend, the crime or misdemeanor with which they may be charged, the date of their apprehension, and the date on which they may be despatched to the magistrate.—Reg. XX., 1817, sec. viii., cl. 5.

69. The purport of every petition, representation, complaint, or information, presented to any officer of police, shall be recorded in the diary of the thannah, whether the same may be cognizable by the native officers of police or otherwise; and if it be proved that a darogah has apprehended any persons, or issued orders, or done any official act which he may not have inserted and truly stated in his diary, or that any occurrences have been wilfully omitted, he shall be punished with dismission from office, or by such other penalty as the circumstances of the case may appear, under the general Regulations, to require.—Reg. XX., 1817, sec. viii., cl. 6.

70. Every entry made in the diary shall be attested by the signature of the individual by whom it may be recorded.—Reg. XX., 1817, sec. viii., cl. 7.

71. The darogah or other officer of police presiding at the thannah, shall be careful to report to the magistrate, at least a month before their diary books are likely to be written through, in order that fresh blank books may be furnished to the thannah without delay, and those diary books which may be completed shall be deposited in the records of the thannah.—Reg. XX., 1817, sec. viii., cl. 8.

72. A book shall be kept, containing copies of all arzees, kyfeuts, reports, and returns, made by the officers of the thannah establishments to the Magistrates' Court.—Reg. XX., 1817, sec. viii., cl. 9.

73. A book shall be kept, containing copies of all perwannahs and orders of every description received from the Magistrates' Court.—Reg. XX., 1817, sec. viii., cl. 10.

74. A book shall be kept, containing copies of all chelauns or despatches of prisoners and property forwarded to the Magistrates' Court.—Reg. XX., 1817, sec. viii., cl. 11.

75. An abstract register shall be kept of robberies and other heinous offences, ascertained to have been committed within the jurisdiction of the thannah, in each month, drawn out after the form No. 4 of the Appendix.—Reg. XX., 1817, sec. viii., cl. 12.

76. A book shall be kept, containing copies of all lists of stolen property delivered into the thannah by prosecutors or others.—Reg. XX., 1817, sec. viii., cl. 13.

77. A register shall be kept, according to the form No. 5 of the Appendix, of offenders who may have been proclaimed, or may have broken jail, or have otherwise eluded the pursuit of justice, and for whose apprehension orders may have been received at the thannah from the Magistrates' Court.—Reg. XX., 1817, sec. viii., cl. 14.

78. A list shall be kept of the names of the villages comprised within the limits of the thannah, showing the names of the proprietors and of the village watchmen, agreeably to the form No. 6 of the Appendix.—Reg. XX., 1817, sec. viii., cl. 15.

*Rules regarding Returns, Reports, and Statements to be sent to the Magistrates, or to the Superintendents of Police.*

79. An extract from the thannah diary, in lieu of the buhee silaheut at present in use, and from the abstract register of robberies and other heinous offences, No. 4, above prescribed, containing the entries made during the month, shall be prepared verbatim, and transmitted to the office of the magistrate, on or before the 5th of every ensuing month.—Reg. XX., 1819, sec. ix., cl. 1.

80. Together with the monthly reports to be transmitted to the magistrate as above directed, the darogahs of police shall forward, under their official signature, and in charge of a burkundauze, a list of the police-officers on the thannah establishment entitled to receive pay from Government for the past month, after the form No. 7 of the Appendix. This list the burkundauze will deliver to the treasurer of the Foujdary Court, on his receiving the pay of the thannah establishment, which shall forthwith be conveyed to the darogah, or other police-officer in charge of the thannah, who will pay the amount due to the several individuals of the establishment, and transmit their receipts with his own, in a paper, corresponding in substance with the form above mentioned, to remain with the records of the Magistrates' Court.—Reg. XX., 1817, sec. ix., cl. 2.

81. In preparing the abstract monthly statements of heinous offences according to the form No. 4 of the Appendix, the darogahs shall pay strict attention to the following rules.—Reg. XX., 1817, sec. ix., cl. 3.

82. The darogahs shall, as far may be in their power, distinguish wilful and malicious murder (kutli-umd) from every other species of homicide, reporting all cases of murder not accompanied with robbery or burglary under the fifth head, and cases of homicide of every other description, excepting homicide in affrays, under the eleventh head of the statement.—Reg. XX., 1817, sec. ix., cl. 4.

83. Under the sixth head the darogahs shall insert all cases of wounding, or violent corporal injury inflicted maliciously, and not in the prosecution of robbery or burglary, or during an affray. —Reg. XX., 1817, sec. ix., cl. 5.

84. Under the twelfth head of the statement all affrays and riots shall be entered, in which any considerable number of persons may have been concerned, or in which any person may have been killed or wounded, and the public peace may have been disturbed; but it shall not be necessary to include in this column cases of assault and battery, or drunken broils, in which only a few individuals may have disputed, and no very serious personal injury may have been sustained.—Reg. XX., 1817, sec. ix., cl. 6.

85. Under the thirteenth and fourteenth heads of the statement all cases shall be entered in which any person may enter or attempt to enter by day or by night, by breaking into any dwelling-house, warehouse, storehouse, or other building or place used for the custody and preservation of property, whether the same be constructed of stone, brick, mud, bamboo, grass, or other materials, or into a tent, boat, or other place of habitation, whether such entry be effected by cutting through or under the wall, or by forcibly raising the roof of the house, or by any other means attended with breaking, and whether, in pursuance of the intent to commit such robbery, any property shall be carried away or otherwise.—Reg. XX., 1817, sec. ix., cl. 7.

86. Under the seventeenth head all cases shall be entered of receiving, vending, or concealing, or melting down stolen property.—Reg. XX., 1817, sec. ix., cl. 8.

87. The eighteenth head of the statement shall include only those cases of arson in which any habitation or other property may appear to have been purposely and maliciously fired, and the darogah shall not include accidental fires under this head.—Reg. XX., 1817, sec. ix., cl. 9.

88. Under the concluding or twentieth head of the statement, the darogah shall insert all cases in which the person destroyed may appear to have been the immediate and voluntary cause of his own death.—Reg. XX., 1817, sec. ix., cl. 10.

89. The darogahs shall report in the statement above prescribed all heinous offences which may come to their knowledge, whether the offenders may be apprehended or otherwise, and shall distinguish in the third column all attempts in which the criminal intent may have failed, inserting in the second column only those cases in which the crime may have been actually perpetrated.—Reg. XX., 1817, sec. ix., cl. 11.

90. A monthly report of crimes and offences, agreeably to the Form No. 4 of the Appendix, shall be transmitted by the police darogahs from each police thannah to the office of the superintendent of police for the division, on or before the 5th of the ensuing month.—Reg. XX., 1817, sec. ix., cl. 12.

91. The reports and returns submitted by the police-officers to the magistrates shall be written in a clear and legible hand, and shall bear at the foot of the writing the date of the despatch, according to the era current in the district, and the signature of the police-officer by whom the report may be made, and when the circumstances may admit, the seat of the thannah; all examinations taken and proceedings held by the police-officers shall be superscribed with the date and month of the era current in their several jurisdictions.—Reg. XX., 1817, sec. ix., cl. 13.

92. The papers transmitted by the police-officers to the Foujdarry Court shall be strung on a thread, the ends of which shall be secured with wax, and the record of each case shall be made up in a separate envelope, and addressed to the magistrate of the district; the name of the thannah, from whence the report may be made, shall be marked on the envelope.—Reg. XX., 1817, sec. ix., cl. 14.

93. Every process and order addressed by a magistrate to a police-officer shall limit a certain time in which it is to be served, executed, and returned to the Magistrate's Court.—Reg. XX., 1817, sec. ix., cl. 15.

94. The returns to all orders and processes, and the certificates of the due publication of all proclamations, addressed by the magistrates to the police-officers, shall be indorsed, as far as the size of the paper will admit, on the original order or process; and if the length of the return should render it necessary, a separate paper shall be annexed to the original document; and a copy of the return shall be entered in the register prescribed by paragraph 72.—Reg. XX., 1817, sec. ix., cl. 16.

95. The police-officers shall, to the extent of their ability, carry into effect such instructions as they may receive within the period specified in the magistrate's order; and if the directions

contained in the order or process cannot be entirely carried into effect within the time limited, a report shall be made, at the expiration of such period, of the cause of delay, with specific information when a further and full return will be made, and the original order or process shall be sent to the magistrate, with such final return, indorsed as directed in the preceding paragraph.—Reg. XX., 1817, sec. ix., cl. 17.

96. The darogahs and mohurrers shall be careful to render their reports and returns in as precise terms as possible, and they shall refrain from recapitulating in their returns a detail of the magistrate's orders, and when referring to such orders shall merely state, summarily, the nature of the case and the date of the perwannah.—Reg. XX., 1817, sec. ix., cl. 18.

*Rules regarding Dawks, and for expediting the transmission of official Papers to and from the Thannahs.*

97. To facilitate the communication between the Magistrate's Court and the stations of the darogahs of police, and to enable the magistrates to obtain speedy information of the occurrence of crimes, as well as with the view of preventing the unnecessary confinement of persons who may be detained in custody pending an inquiry of the police-officers, or trial before the magistrate, the magistrates and the native officers of police are required to attend, as far as may be practicable, to the directions contained in the following rules.—Reg. XX., 1817, sec. x., cl. 1.

98. The superintendence of the despatch by dawk of perwannahs to the police darogahs, and of reports from the officers of police to the Magistrate's Court, shall be intrusted to the nazirs of the Criminal Courts, and to the thannah mohurrers, who shall be held responsible for the speedy transmission of the packets to and fro; and shall report to the magistrates all instances of delay which may come to their knowledge.—Reg. XX., 1817, sec. x., cl. 2.

99. As far as circumstances may admit, the magistrate's orders to his police-officers, and the thannah reports, whether addressed to the magistrates or to the superintendents of police, shall be transmitted by the Government dawk; and all dawk officers in the Company's provinces are required to receive and convey, free of expense, such orders and reports, the same being superscribed with the name and official designation of the public officer by whom the papers may be despatched; together with the words "Kar Surkar," to denote that they relate to the public service.—Reg. XX., 1817, sec. x., cl. 3.

100. In cases where a thannah station may be situated at a considerable distance from the route of the Government dawk, the magistrates, in communication with their police-officers, shall establish dawk stations between the thannahs, or from the thannahs to the Magistrate's Court, at proper distances, according to local circumstances, but not in any instance exceeding five coss, and the land proprietors and farmers of land, or their local managers, shall be called upon to name and appoint the requisite number of peons or pykes (not being village watchmen) for the performance of this duty. In places where no establishment of regular police-officers may be stationed, they shall also be required to fix on a particular house in the village, where the peons or pykes may at all times be found without delay, and to name the mundul, putwaree, or other person in the village, whose business it shall be to receive and forward the papers transmitted by the dawk,—a statement shall be prepared and kept up at each thannah station; and it shall be the duty of every darogah, on his appointment to a thannah, to see that this paper is included in the records of the thannah, as well as that the dawk for the conveyance of the magistrate's perwannahs and the thannah reports is duly regulated, and the peons or pykes maintained by the landholders, farmers, or managers, at the appointed stages.—Reg. XX., 1817, sec. x., cl. 4.

101. The landholders, proprietors, and farmers of land, with their local managers and heads of villages, shall be held responsible for a due observance of the foregoing rules, and shall be liable, on proof before the magistrate of wilful disregard of these provisions, especially after a previous admonition, to be punished by a fine not exceeding one hundred rupees, commutable, in default of payment, to confinement in the civil jail for any period not exceeding one month.—Reg. XX., 1817, sec. x., cl. 5.

102. The nazir of the Magistrate's Court shall forward by the dawk, every day at the same hour (except when otherwise specially instructed by the magistrate), all perwannahs and papers addressed to the respective thannahs, which the magistrate may direct to be transmitted by the dawk; and shall write on the envelope of each packet the date and time of despatch. It shall likewise be the duty of the nazir to record on the envelope of all reports received from the thannahs, the date and time of their receipt.—Reg. XX., 1817, sec. x., cl. 6.

103. All reports and papers transmitted by the dawk from the police thannahs shall be addressed to the magistrate, and the seal of the thannah shall be affixed to the envelope; the mohurrer shall specify on the envelope the date and hour of despatch; and in cases where the papers of one thannah may be left at another thannah on their transmit to and from the

magistrate's station, the mohurrer of the latter thannah shall forward such papers, noting on the back of the envelope the date and hour of the arrival and departure of the dawk.—Reg. XX., 1817, sec. x., cl. 7.

104. The police darogahs and their mohurrers are required to forward by the thannah dawk, or by the hands of their burkundauzes, as occasions may offer, such reports and papers as may be sent to them by the principal sudder ameens, sudder ameens, or moonsiffs, for the trial of civil suits, for the purpose of transmission to the judge of the district; and they shall grant receipts to the principal sudder ameens, sudder ameens, or moonsiffs, for such papers as may be delivered to them.—Reg. XX., 1817, sec. x. cl. 8.

*Prohibiting various irregular Practices on the part of the Police-Officers.*

105. No police darogah, mohurrer, jemadar, or burkundauze shall trade or keep any warehouse or shop for wholesale or retail, within the limits of the thannah to which he may be appointed.—Reg. XX., 1817, sec. xi., cl. 1.

106. The darogahs of police are prohibited from employing the burkundauzes of their thannahs on their own private affairs, under penalty of fine and dismission from office.—Reg. XX., 1817, sec. xi., cl. 2.

107. Whenever a summons or warrant, or other criminal process, may be served by a burkundauze, or other police-officer receiving pay from Government, no diet money, or other allowance or gratuity, shall be demanded or received from the complainant or the accused, or from any witness or other person; and the demand or receipt of such by any police officer, directly or indirectly, in violation of this rule, shall be punishable as a criminal offence on conviction before the magistrate or Sessions Court. The offender shall also be compellable, either on a criminal prosecution, or by a civil action, to refund the amount received, besides being liable to immediate dismission from office, under the provisions contained in the existing Regulations.—Reg. XX., 1817, sec. xi., cl. 3.

108. The police darogahs are enjoined, under penalty of dismission from office, not to permit any established vakeel or mokhtar to be permanently employed at their thannahs, on the part of any landholder, farmer, local agent or other person. But this rule is not meant to preclude the occasional exployment of a vakeel or mokhtar, for any specific purpose when it may be necessary.—Reg. XX., 1817, sec. xi., cl. 4.

109. The darogahs and other mofussil police-officers are prohibited from employing any mokhtar or vakeel at the station of the zillah or city magistrate for the purpose of receiving and transmitting the salaries of the thannah establishment, or for any other purpose connected with their public functions, except in particular cases wherein they may be specially authorized by the magistrate to employ a vakeel.—Reg. XX., 1817, sec. xi., cl. 5.

110. No mohurrers or writers, excepting those on the police establishments paid by Government, shall be employed at the thannahs without the previous sanction of the magistrate, except in cases of emergency, which will not admit of delay. In the event of any police darogahs requiring the assistance of additional mohurrers, in consequence of a stress of business, he shall report the circumstance for the orders of the magistrate.—Reg. XX., 1817, sec. xi., cl. 6.

111. The darogahs are prohibited from encouraging or employing, without the knowledge or express sanction of the magistrate, any goindahs or spies, who may earn a livelihood by the profession of an informer, and they shall apprehend and send to the magistrate any persons who may give out that they are employed as goindahs by the magistrate, or by the superintendent of police, unless such persons can show a written authority from the magistrate, or from the superintendent of police. The above provisions shall not be construed as precluding the police officers from employing persons to trace offenders who may have eluded the pursuit of justice, or from encouraging persons to furnish information, by which robbers, or other known criminals, may be discovered and apprehended. On the contrary, the darogahs shall encourage such persons to communicate all the information possessed by them, and shall report to the magistrate any instance of meritorious service on the part of any such individual, by which offenders may be brought to justice, whether the individual may have personally exposed himself to trouble and risk in securing the offender, or may have merely supplied the necessary intelligence to the police officers.—Reg. XX., 1817, sec. xi., cl. 7.

*Charges not cognizable by Police-Officers.*

112. The darogahs and other native officers of police are prohibited, under pain of dismission from office, from taking cognizance of any charge of adultery, fornication, calumny, abusive language, slight trespass, or inconsiderable assault.—Reg. XX., 1817, sec. xii., cl. 1.

113. Persons preferring to the native police-officers charges of the nature specified in the

preceding paragraph, shall be referred by those officers for redress to the Magistrate's Court, and informed that cognizance cannot be taken of their complaints at the thannahs; and the darogah or other police-officer to whom any such charges may be presented in writing, shall record in the thannah diary, hereinafter prescribed, the name of the complainant, the nature of the charge, and the date on which it may be rejected. The date and ground of rejection shall also be indorsed on the written plaint, to be returned to the complainant.—Reg. XX., 1817, sec. xii., cl. 2.

114. The darogahs and other police-officers are likewise prohibited from admitting compromises or razeenamahs in any cases, and from interfering in any matter which may not be expressly provided for in this or in any other Regulation, as well as in all cases from passing sentence upon any complaint, from imposing a fine, or inflicting any punishment, and from making any exaction from the prosecutor or the accused, or their respective witnesses, or from any other persons whatsoever.—Reg. XX., 1817, sec. xii., cl. 3.

*General Duties of Police-Officers on receiving Charges or Information of heinous Offences.*

115. On receipt of any charge or information of murder, robbery, theft, burglary, homicide, maiming, wounding, actual affray, or other heinous offence, not excepted by this Regulation from the cognizance of the police darogah, the statement of the prosecutor or informer shall be certified on oath, or by a solemn declaration, in conformity with the provisions of Act V., 1840; and such inquiry shall be made as may be necessary to elucidate the circumstances of the case; and if there are any witnesses to the fact, or persons acquainted with the particulars, they shall be questioned, without oath or affirmation, either privately and apart, or publicly, as may appear most conducive to the attainment of the truth.—Reg. XX., 1817, sec. xiii., cl. 1.

116. It shall not be considered necessary to take down in detail the questions and answers of the witnesses, but the substance of any material information obtained from them shall be reduced to the form of a sooruthal, or kyfeeut, which document shall be authenticated by the attestation of the persons examined, and transmitted to the magistrate under the signature of the police-officer by whom the inquiry may be made; the evidence of the eye-witnesses being distinguished in the report from that of persons deposing from hearsay.—Reg. XX., 1817, sec. xiii., cl. 2.

117. In cases of murder, gang robbery, burglary, attended with wounding or other violent crime, where the circumstances of the case may be elucidated in a greater degree by a sketch or plan of the spot, the same shall be prepared, if it can be done without subjecting the inhabitants to inconvenience, and submitted with the report. The police-officers shall also be careful to ascertain in all cases the exact date and time of the day or night when the offence charged may have been committed; and shall record the date according to the Bengal, Fussily, or other era current in the district.—Reg. XX., 1817, sec. xiii., cl. 3.

118. The police darogahs are prohibited from causing witnesses to certify to the truth of their depositions by an oath or by a solemn declaration, in conformity with the provisions of Act V., 1840, on any local investigation which may be made by them into the circumstances of any murder, robbery, or other crime, or in the performance of any other of their duties, unless the same be expressly sanctioned by the provisions of a Regulation applicable to the case.—Reg. XX., 1817, sec. xiii., cl. 4.

119. The officers of police shall endeavour, as far as practicable, to complete the inquiry in the first instance, and to collect all attainable evidence, and to bind over all the witnesses, necessary for the trial, to appear before the magistrate at the time when the report may reach the Magistrate's Court, in order that the case may be tried without unnecessary delay. The darogah shall send in with the chelan or despatch, any burkundauzes or other subordinate police-officers, whose evidence may be necessary on the trial of the case; and if the whole of the witnesses cannot be found at the time of transmission of the chelan, the darogah shall endeavour to collect them, and shall send them in without waiting the instructions of the magistrate.—Reg. XX., 1817, sec. xiii., cl. 5.

120. In cases wherein the offenders are unknown, or though recognized, may not have been apprehended, the prescribed local inquiry into the circumstances shall, notwithstanding, be made without delay, and the police darogah shall transmit an immediate and full report of the result to the magistrate, for his information and orders. But the witnesses shall not in such cases be sent to the magistrate, nor bound over to attend him without his special instructions for the purpose.—Reg. XX., 1817, sec. xiii., cl. 6.

121. In all cases where the offender may be known, and may have absconded, the police-officer conducting the inquiry shall ascertain and describe the person of the offender, specifying also his name, and that of his father, as well as his usual place of residence, in order that he may hereafter, if necessary, be fully identified.—Reg. XX., 1817, sec. xiii., cl. 7.

122. If, in the conduct of an inquiry, the person accused or suspected should appear to have

been guilty of more than one offence, cognizable by police-officers, or if any misconduct or neglect in matters of police should attach to any zemindar, farmer, local agent, village watchman, or other person, whose duty it may be to aid the police, the police darogah shall institute a distinct inquiry on each case, the result of which shall be transmitted to the magistrate in separate reports and despatches.—Reg. XX., 1817, sec. xiii., cl. 8.

123. Whenever any person may be apprehended and sent to the Magistrate's Court, under the provisions of this Regulation, and it may be known to the police darogah, or other officer presiding at the thannah, that such person has been apprehended on a former occasion by the police on any other account, the darogah or other officer, reporting on the case which may be the ground of his present apprehension, shall state also the offence for which the prisoner may have formerly been arrested, and if practicable, shall ascertain from the thannah papers, and report the year and date of the record of the case referred to.—Reg. XX., 1817, sec. xiii., cl. 9.

124. The darogahs of police, when they may proceed from their thannahs for the purpose of making any local inquiry, or for the performance of any other public duty, shall state in their reports the date and time of their departure from the thannah station, and the date and time of their arrival at the place of their destination, and also of their return to the thannah. The month and the year to be used on all such occasions, as well as generally in the reports of the police darogahs, shall be those of the current era of the district, whether the Bengallee, Fussily, or Willaity.—Reg. XX., 1817, sec. xiii., cl. 10.

*Rules for holding Inquests on Occasions of Murder, Homicides, Wounding, and unnatural Deaths.*

125. The principal persons residing in villages, whether landholders or farmers, or other local managers or mundals, putwarries, or other heads of villages, are responsible for the early and punctual communication to the officers of the nearest police-station of all unnatural deaths, or deaths attended with suspicious circumstances, which may come to their knowledge; and any landholder, farmer, manager, or other principal inhabitant of a village, who may be convicted of wilfully neglecting or delaying to furnish the information above required, shall be liable to be fined by the magistrate in any sum not exceeding Rs. 200; and in default of payment, to be confined for any period of imprisonment not exceeding six months.—Reg. XX., 1817, sec. xiv., cl. 1.

126. In all cases of murder, unnatural or suspicious death, or violent and dangerous wounding, the darogah of police shall make it an invariable rule, immediately on receiving information, to repair in person to the spot on which the dead body, or person wounded, may have been found, or if prevented from going personally, shall depute a proper officer; and on such occasions the following rules shall be strictly observed.—Reg. XX., 1817, sec. xiv., cl. 2.

127. That they question privately, in the first instance, any relations, connections, friends, or neighbours of the deceased, or of the person wounded, who may be able to state the circumstances of the case; and that they endeavour to collect, before the inhabitants shall have assembled for the public inquest, such information as may guide their inquiries in the conduct of the investigation.—Reg. XX., 1817, sec. xiv., cl. 3.

128. That they question the individual wounded, and require him, if he is able to speak, to name and describe, on oath or affirmation, the person by whom he may have been wounded, the names of the persons present when the act was committed, and, generally, the circumstances under which the crime was perpetrated.—Reg. XX., 1817, sec. xiv., cl. 4.

129. That they examine the body of the person wounded, or, in cases of death, the dead body, with a view to ascertain the number of wounds or other corporal injuries; the length, breadth, and depth of each; with what weapons the wounds or hurts may have been given; and the parts of the body in which they may have been received, and that they record the same either at the foot of their sooruthal or report, or on a separate paper to be annexed to the report.—Reg. XX., 1817, sec. xiv., cl. 5.

130. That they describe particularly the spot on which the wounded person or the dead body may have been found; and that they report whether the crime appears to have been committed on the spot, or whether the individual wounded, or the dead body, appears to have been brought and laid there; also in cases of alleged suicide, or of accidental death, whether the circumstances under which the body may be found are such as to warrant a conclusion, that the deceased had met with his death from his own hands, or by misadventure, or whether any, and what grounds may exist for believing the deceased to have been killed by the hands of others; and further, that they ascertain the name of the person wounded, or of the deceased, if any person present should recognize him.—Reg. XX., 1817, sec. xiv., cl. 6.

131. That if the person killed shall appear to be a stranger, and his name shall not be known, they endeavour to ascertain where he was last seen, or where he slept the night before.—Reg. XX., 1817, sec. xiv., cl. 7.

132. That in cases in which the offenders may not be immediately discovered, or the cause of the murder or unnatural death or wounding may be unknown, the police-officer conducting the inquiry shall endeavour to trace whether any enmity, ill-will, jealousy, or other cause of dissension, subsisted between the wounded or deceased, and any other person or persons in the neighbourhood, and if so, the particulars of the disagreement; when and under what circumstances the wounded or the deceased, and the persons said to bear him ill-will, may last have been seen in company, and whether any and what angry expressions had been used by the parties; moreover, in cases in which there may be reason to believe that the unknown offender has received any wound, or other corporal injury, from resistance in the perpetration of the crime, they shall question the hujjams, village surgeons, washermen, or other persons residing in the vicinity, who from their profession may be likely to afford information, leading to the discovery of the offender in such cases.—Reg. XX., 1817, sec. xiv., cl. 8.

133. That the above inquiry be made and committed to writing in the presence of creditable people, resident on the spot or in the neighbouring villages; and that they require a sufficient number of persons present to subscribe their names to the paper, which is likewise to be attested by their own signature, and forwarded without delay to the magistrate.—Reg. XX., 1817, sec. xiv., cl. 9.

134. In cases of murder, it shall be the duty of the officers of police to endeavour to obtain and secure the weapon or instrument with which the crime may have been committed, in order that the same may be produced and identified at the further stages of the inquiry or trial for the offence.—Reg. XX., 1817, sec. xiv., cl. 10.

135. In cases of wounding, the darogah, or other police-officer conducting the inquiry, shall endeavour to obtain for the person wounded such surgical assistance as may be procurable, and, if the wounds are severe, the individual wounded shall not be moved or sent to the Magistrate's Court until he may be able to travel without inconvenience or risk. The police-officers are further directed to notify to the inhabitants, as occasion may offer, that in the event of any person being wounded by robbers or others, in such manner that he cannot be conveyed to the thannah without hazard of his life, it is not necessary to remove such person from the place where he can be best taken care of, but that immediate notice must be given at the thannah, that the police-officer may proceed to the spot, in conformity with paragraph 126, and make the inquiry therein prescribed.—Reg. XX., 1817, sec. xiv., cl. 11.

136. In cases of murder or unnatural death, the police darogah shall, on ordinary occasions, when he has completed his inquiry, either make the body over to the charge of the relations of the deceased, or shall cause it to be buried or burnt on the spot, as the usages of the country and religious persuasion of the deceased may render proper; and it shall not be considered necessary to send the corpse for the inspection of the magistrate, except in cases of murder by poison, or on occasions where the injury sustained by the deceased may be of a doubtful nature, requiring the inspection and report of a surgeon, in which cases the darogah shall, if the state of the weather and the distance from the Magistrate's Court will admit of the body being transported without risk of putrefaction on the road, forward the corpse, covered with a cloth, in the most decent and expeditious manner practicable, to the magistrate's place of residence.—Reg. XX., 1817, sec. xiv., cl. 12.

*Inquiries to be made by the Police-Officers in Cases of Gang-Robbery, Burglary, and other heinous Offences.*

137. In all cases of gang-robbery, or other robbery by open violence, as well as in every instance of a heinous crime, attended with a violent breach of the peace, or other circumstances of aggravation, the police darogah, in whose jurisdiction the offence may occur, shall, if practicable, proceed in person to the spot without delay, transmitting an immediate report of the occurrence and of his departure from the thannah, for the information of the magistrate. If unable to proceed in person, or if the case be not of a heinous nature, nor attended with circumstances of aggravation, the darogah shall be at liberty to depute a fit person from among the officers acting under him, to ascertain the facts and circumstances of the case, and to procure all the information which it may be practicable to obtain for the discovery and apprehension of the offenders.—Reg. XX., 1817, sec. xv., cl. 1.

138. The police-officer making local inquiries of the description specified in paragraphs 125 to 136, shall be careful to ascertain and record the day and hour when the fact was committed, the situation of the place, the names and descriptions of any persons who may have been recognized as the perpetrators of the crime, by whom such persons have been seen and known, and the names and description of any persons suspected of being concerned in the offence committed, with the grounds of such suspicion. Also a full recital of the manner in which the crime has been effected, and in cases of robbery, of the articles of property plundered, the direction in which the robbers

may have fled; whether they had torches, and any and what arms; whether they attempted to conceal their persons during the robbery; whether any arms or articles of property belonging to the robbers were picked up after the outrage; and if so, whether any person in the neighbourhood has recognized such articles; whether any number of persons were known to have assembled at any liquor-shop, fakeer's muth, or other place, immediately preceding the occurrence of the robbery, and if so, the general character of such persons; whether the landholders and farmers or their local agents took any and what measures, immediately after the occurrence, for the discovery and apprehension of the offenders; whether the village watchmen were present, and showed a proper degree of attention and alacrity on the occasion, or otherwise; whether there are any persons of notorious bad character in the neighbourhood, or persons who have before been punished for robbery and discharged from jail, and if so, where such persons were at the time of the commission of the offence.—Reg. XX., 1817, sec. xv., cl. 2.

139. The foregoing inquiries shall be made and committed to writing on the spot, in the form of a sooruthal or report, and in the presence of three or more creditable inhabitants of the neighbourhood, by whom it shall be attested, and the papers shall be forwarded without delay for the information of the magistrate.—Reg. XX., 1817, sec. xv., cl. 3.

140. It shall further be the duty of the police-officers, on occasions of the description above mentioned, as well as in cases of murder and unnatural death, to apprize the persons present at the inquiry, that their suppression or denial of any knowledge which they may possess relative to the perpetrators of the crime will tend to invalidate their testimony in the event of their deposing to such knowledge at a future period. They shall at the same time give encouragement to all persons, not accomplices or accessaries, who may have been present at the commission of a crime, to make a full communication of every fact and circumstance within their knowledge respecting the offenders, and shall take their information or evidence with such precautions of secrecy as may be deemed requisite, where persons supposed to have recognized any of the offenders may appear to be deterred from publicly naming them, under fear of the consequences, if the parties should not be apprehended.—Reg. XX., 1817, sec. xv., cl. 4.

141. The darogahs of police shall invariably report to the magistrate every instance of burglary and theft which may be brought to their knowledge or otherwise, as well as of the attempts in which the offenders may not have succeeded in carrying off property.—Reg. XX., 1817, sec. xv., cl. 5.

142. In cases of burglary, the police-officer conducting the inquiry shall attend to the foregoing instructions regarding inquiries in cases of robbery, as far as the same may be applicable; and shall be careful to ascertain and report the time of the day or night at which the offence was perpetrated, and the means used in effecting an entry into the habitation; and if by breaking or cutting through a wall, mat, or other partition, the length and breadth of the aperture; also whether the house or apartment into which a burglarious entry may have been effected is used as a place of residence, or for the custody and preservation of property.—Reg. XX., 1817, sec. xv., cl. 6.

143. Police-officers making inquiries in cases of robbery, burglary, and theft, shall require the village chokeedars, the landholders and their agents, and the inhabitants of the place where the offence may be committed, to state whether they suspect any and what persons of having committed the offence, and if so, the grounds of their suspicion; after which, they shall take the necessary measures to ascertain how far such suspicions may be well founded, and where the persons suspected may have been at the time the crime was perpetrated.—Reg. XX., 1817, sec. xv., cl. 7.

144. In cases of burglary and thefts, unattended with personal violence, it shall not be lawful for darogahs or other police-officers to make the local inquiry heretofore required by paragraphs 115 to 124 and 137 to 143, or to apprehend persons suspected of such offences, unless a petition on unstamped paper shall be presented to them by an individual injured, requesting that a search may be made for property stolen, or that the offender or offenders may be brought to punishment, or unless an express order to adopt measures for those purposes shall be received by them from the magistrate or joint magistrate to whom they may be subordinate.—Reg. II., 1832, sec. ii, cl. 2.

*Search for Stolen Property, and disposal thereof when found.*

145. The search for plundered or stolen property, whether under the special orders of the magistrate, or under information received by the native officers of police, shall be conducted agreeably to the following rules.—Reg. XX., 1817, sec. xvi., cl. 1.

146. The darogahs of police are prohibited, except under the special orders of the magistrate, from searching the interior of any house or building for stolen or plundered property, unless

a list of the articles missing be delivered or taken down in writing at the thannah, with a declaration, stating that a robbery has been committed, and that the informant, whether he be the owner of the property, or accomplice in the offence, or other person, has substantial ground to believe that the property is deposited in such house or place —Reg XX, 1817, sec xvi, cl 2

147 In the case of search warrants issued from the magistrate s office, the police-officers shall report the execution of the process on the back of the warrant —Reg XX, 1817, sec xvi, cl 3

148 The darogahs, when not especially instructed by the magistrate, shall transmit all representations made to them regarding the receipt or concealment of plundered or stolen property, at or before the time when they may proceed to the search, for the information of the magistrate, and for any orders which he may deem it necessary to issue on the subject They shall also take the necessary precautions for preventing any such property from being clandestinely removed —Reg XX, 1817, sec xvi, cl 4

149 The search for plundered and stolen property shall be proceeded on without previous notice being given to the owners or inhabitants of the house, and shall uniformly be made in the day-time, unless there shall be substantial reason to believe, that in case of any delay the property sought will be removed The process shall invariably be conducted by the darogah, mohurrer, or jummadar in person, and if the darogah cannot himself proceed, he shall issue a warrant according to form No 10 of the Appendix The search shall be made in the presence of three or more respectable inhabitants of the village in which the house or place searched may be situated, who shall subscribe their names to the report made to the magistrate s office, and an opportunity shall, in every instance, be afforded to the occupant of the house of attending the search —Reg XX, 1817, sec xvi, cl 5

150 In conducting the search directed by the preceding rules, the police darogahs shall be careful that no articles of property are surreptitiously introduced into the habitation at the time of search, and no prosecutor or informer, or any other person, shall be permitted to enter, unless he allows himself to be strictly examined in the first instance —Reg XX, 1817, sec xvi, cl 6

151 Should the occupant of the house ordered to be searched be of such a rank in society as would render it improper and objectionable, according to the prevailing opinions and usages of the country, for the officers of police to enter the zenana or apartments of the women, the police-officers shall give due notice for the removal of any women within the zenana, and after furnishing means for their removal in a suitable manner (if they be women of rank, who according to the customs of the country cannot appear in public), shall enter the zenana apartments for the purpose of completing the search, using at the same time every precaution consistent with these provisions, for preventing the clandestine removal of property —Reg XX, 1817, sec xvi, cl 7.

152. If on examining the premises ordered to be searched any property be discovered, which shall be alleged by the complainant or informer, at whose instance the search may be made, to have been stolen or plundered, or which there may be any other reasonable ground to believe has been acquired by theft or robbery, the darogah, or other officer of police, by whom the search may have been conducted, shall endeavour to trace the actual proprietor from whom the property may have been stolen or plundered, and shall question the occupant of the house regarding the means by which the property was obtained, and in the event of his being unable to give a satisfactory explanation, shall forward the property, together with the person in whose house it may have been discovered, to the magistrate —Reg XX, 1817, sec xvi, cl 8

153 Should any suspicious property be discovered in the course of a search conducted under the foregoing provisions, and should no person lay claim to the same, the police darogah shall compare the articles with such lists of property stolen or plundered as may have been previously delivered into the thannah in other cases, and recorded in the register prescribed by paragraph 76, and in the event of the property corresponding with the amount given in the list, shall either send the articles for the inspection of the supposed proprietor, or shall summon him to the thannah for the purpose of identifying his property —Reg XX., 1817, sec xvi, cl 9

154 On the occasion of searching a house under the foregoing rules, the police-officer shall be careful to notice the particular spot in which the property may be found, the time of finding, and the name of the finder, and all property which may be claimed as having been stolen or plundered, as well as all property of a suspicious nature found on persons charged with robbery, burglary, or theft, or which may be seized by the officers of police under suspicious circumstances, shall be forwarded without delay to the magistrate, together with a despatch A copy of the despatch being registered as prescribed by paragraph 74, the original shall be given to the burkundauze charged with the conveyance of the property, to be delivered to the nazir on his arrival at the sudder station —Reg XX, 1817, sec xvi, cl 10

155. Articles of value and of small bulk shall be fastened up in a box, petarah, or bag, and the seal of the thannah affixed Each article of property shall have a separate number (written on paper with the seal of the thannah attached to it), to correspond with the number contained in the

first column of the despatch; and darogahs, when describing the property in their reports, shall invariably quote the number affixed to each article.—Reg. XX., 1817, sec. xvi., cl. 11.

156. No property shall be removed from a house by an officer of police unless it be claimed or recognized as having been stolen or plundered, or considered to be suspicious; and no property once removed shall be returned without the special instructions of the magistrate.—Reg. XX., 1817, sec. xvi., cl. 12.

157. On the occurrence of a heinous robbery, burglary, or theft, the darogah of police shall transmit a list of the property plundered or stolen to the proprietor or manager of the estate in which the crime may have been committed, with an injunction to cause the list to be affixed in a conspicuous place, and also published in the several bazaars and hauts situated in the estate, at the same time requiring all gold and silversmiths, retail dealers, and other persons, to give notice to the officers of police against persons offering such articles for sale.—Reg. XX., 1817, sec. xvi., cl. 13.

158. Whenever the person in whose possession stolen or plundered property may be found shall deny all knowledge of the theft or robbery, and assert that he procured the property by honest means, the darogah, or other police-officers conducting the inquiry, shall require such person to state the circumstances under which he became possessed of the property, and shall endeavour to ascertain through whose hands it may have passed, as well as to trace the persons by whom the robbery or theft may have been committed.—Reg. XX., 1817, sec. xvi., cl. 14.

159. Any person who may find within his house or premises property not his own, which he may have reason to believe lost or stolen property, or to have been deposited within his house or premises with a malicious intent, shall, within twenty-four hours after finding such property, convey it to the nearest police-darogah, and report the circumstances attending the discovery of the property. The darogah shall commit to writing the circumstances which may be stated by the person finding the property, and cause the same to be signed by him, and attested by two or more witnesses present. Such attested writing, together with the property found, shall then be forwarded by the darogah, without delay, to the magistrate.—Reg. XX., 1817, sec. xvi., cl. 15.

160. All unclaimed property, whether cattle, boats, timbers, or other goods or chattels, shall be considered as belonging to Government, and the darogahs of police shall forward any property of this description which may come into their hands to the magistrate of the district in which they may respectively be employed; or if any article of unclaimed property cannot be easily moved, the darogah of police shall make over the charge of such article to the local zemindar, manager, or head person of the village, until the order of the magistrate in regard to its disposal can be obtained.—Reg. XX., 1817, sec. xvi., cl. 16.

161. On the production of the property and appearance before the magistrate of the party in whose possession it was found, he or they shall be required to explain by what means it was obtained, and if it was acquired by purchase, to state the name of the person, together with his place of residence, from whom it was bought. If the holder or holders of the property shall be unable, after the above and such further examination as the magistrate may make, to give a satisfactory account of the means by which it was acquired, and the magistrate shall, on consideration of that and all the other circumstances of the case, think that there are strong grounds for believing that the property was actually stolen or otherwise illegally acquired, he shall detain the property and issue a publication (supposing no person to have hitherto appeared to claim it), specifying the particular articles of property discovered and suspected to have been stolen or otherwise dishonestly acquired, and requiring any person who may have claims to it to appear and establish his or her right thereto, within six months from the date of the said publication.—Reg. I., 1811, sec. xi., cl. 8.

162. Whenever any person may advance claims to property discovered in the mode stated in the preceding paragraph, the magistrate will, of course, put the case into a regular course of prosecution under the general Regulations.—Reg. I., 1811, sec. xi., cl. 9.

163. If no person should appear, within the period of six months from the date of the above-mentioned publication, to claim property deposited in the custody of the magistrate, under the rules contained in this section, and if the party in whose possession such property was found shall have been unable to show that it was legally acquired, and to remove the suspicions which existed that it was dishonestly obtained, the said property shall, in such case, be declared by the magistrate confiscated to Government.—Reg. I., 1811, sec. xi., cl. 10.

164. Whenever the necessity may, in the opinion of the magistrate, cease to exist for retaining any longer any gold or silver ornaments, or brass or copper utensils, which may have been confiscated to Government, such ornaments and utensils shall be broken up and sold at his public cutcherry as bullion or old metal.—Reg. I., 1811, sec. xi., cl. 11.

*Duties of Police-Officers with regard to Coiners and Utterers of Base Coin.*

165. The darogahs of police shall apprehend and send to the magistrate all persons uttering base coin, and knowing it to be such, or who may be charged with counterfeiting or debasing the current coin. On the receipt of credible information they shall, under the provisions of paragraphs 145 to 160, proceed to search the houses of persons accused of manufacturing or knowingly uttering base or counterfeit coin, and shall seize and transmit to the magistrate any such coin which may be found, together with all implements used for the purpose of debasing or counterfeiting the coin; also all books of accounts relating to the sale or circulation of base coin, together with such evidence as may be procurable to establish the offence imputed to the accused. Reg. XX., 1817, sec. xvii.

*Duties of Police-Officers in the Prevention or Suppression of Affrays and Riots.*

166. The darogahs of police shall proceed in person, or depute one or more of their officers, as circumstances may require, to attend and maintain the peace at fairs, and during the celebration of festivals, at all places where any considerable number of persons may be collected together.—Reg. XX., 1817, sec. xviii., cl. 1.

167. On receiving intimation of any tumultuous meeting or assemblage of persons, or of any projected riot or serious disturbance, whether arising from trespass or disputes regarding land, crops, tunks, water-courses, reservoirs, or other causes, the darogahs of police shall either proceed in person, or cause the mohurrer or jummadar to repair immediately to the spot, and the police-officer employed on such duty shall, in the first instance, proceed to the residence of the zemindar, talookdar, or farmer, in whose estate or farm the disputants may be said to be, and require him instantly to cause them to disperse, acquainting him that the land or crop in dispute will be liable to confiscation if any affray ensue.—Reg. XX., 1817, sec. xviii., cl. 2.

168. In the event of this measure proving insufficient, he shall endeavour to prevail on the parties to disperse, and either to adjust their differences amongst themselves by arbitration or punchayet, or to have recourse to a Court of Judicature for the decision of their claims. In the event of such endeavours proving fruitless, the police-officer who may be present shall declare aloud, that if any person is killed, wounded, or violently beaten, all persons concerned in the affray will be brought to trial before the Criminal Courts. The police-officers will at the same time strive to seize the leaders, or principal offenders; and in the event of their failing so to do, they will endeavour to ascertain their names and places of abode, and to collect sufficient evidence, if practicable, from persons unconnected with the parties, of the circumstances of the affray, the causes which led to it, and who were the first aggressors; and, after taking these steps, shall set people to watch the further proceedings of the parties, and immediately communicate the whole of the particulars to the magistrate, who will adopt the necessary measures for bringing the offender or offenders to condign punishment.—Reg. XX., 1817, sec. xviii., cl. 3.

169. The officers of police are required to proceed to the spot, as above directed, and use every precaution to prevent affrays, but they shall confine themselves to maintaining the peace, and shall on no account take part with or afford assistance to either side in the dispute; and darogahs are strictly prohibited, unless under the special instructions of the magistrate, from deputing burkundauzes, or muzkooree peons, to defend the property of either party, applying for the aid of the police, on the ground of alleged apprehension of affray.—Reg. XX., 1817, sec. xviii., cl. 4.

170. If the cause of dispute be land or crops, the darogah, in his report to the magistrate, shall describe the land contested, or the quantity or quality of the grain; and in boundary disputes, where the claims of individuals may be better explained by a plan of the ground, shall prepare and transmit with their reports a sketch showing the outline and general position of the portions of land claimed by the contending parties.—Reg. XX., 1817, sec. xviii., cl. 5.

*Duties of Police-Officers in receiving Confessions, and in the Treatment of Prisoners generally.*

171. Whenever any person may be apprehended and brought before a darogah, or other police-officer, under the provisions of this Regulaton, the examination of the prisoner shall be taken without oath or affirmation, in the presence of three or more credible witnesses, who are to attest the examination; and the police-officer presiding at the inquiry shall question the prisoner fully regarding the whole of the circumstances of the case, and the persons concerned in the commission of the crime; and if any property may be stolen or plundered, the persons in possession of such

property, or the place where it has been deposited. In the event of the prisoner's making free and voluntary confession, it shall be immediately written down, if practicable, in the language best understood by the person confessing, and in the presence of three or more credible witnesses, who can sign their names, and are not officers of the police, or connected with the thannah establishment: if no persons can be found who may be able to read or write, the most respectable persons in the village shall be required to bear witness, and to affix their marks in attestation of the writing. The party confessing, as well as the witnesses, shall be allowed to read the same when finished, or if unable to read, the police-officer recording the confession shall invariably read it over in the presence of the party and witnesses, before it is signed and attested, and shall state, at the foot of the paper, the day of the week, date, hour, and place, at which it may be taken; the original confession, bearing the signatures of the party and witnesses, shall invariably be transmitted to the magistrate, and not a copy; and the police-officer presiding at the inquiry, as well as the person by whom the confession may be taken down in writing, shall subscribe their signatures to the paper in attestation of its authenticity.—Reg. XX., 1817, sec. xix., cl. 1.

172. No compulsion shall be used either towards parties or witnesses for the purposes of obtaining any information whatsoever; and police-officers are strictly enjoined, not on any occasion, or under any pretext whatever, to encourage a prisoner, apprehended upon a criminal charge, to confess the same, or to excite the hopes or fears of a prisoner by holding forth a prospect of pardon, or using threats, or otherwise persuading or intimidating the prisoner, with the view of inducing him to confess: any species of maltreatment inflicted on a prisoner or witne by a police-officer, landholder, or farmer, or by any other person whatever, whether with a view . extort a confession, or to procure information, will subject the offender to exemplary punishment, on conviction before the magistrate or Sessions Court.—Reg. XX., 1817, sec. xix., cl. 2.

173. Whenever a confession may be taken at night, or at any other place than the police thannah, the special reason for its having been so taken shall be stated in the darogah's report.—Reg. XX., 1817, sec. xix., cl. 3.

174. The foregoing provisions are not meant to preclude the police darogah, or officers presiding at the inquiry, from making any private verbal examination which he may deem requisite, with the view of ascertaining accomplices, or discovering stolen property, or obtaining means of proof.—Reg. XX., 1817, sec. xix., cl. 4.

175. Prisoners confessing offences shall be kept apart from all persons in custody at the thannah, and if practicable, shall be forwarded to the Magistrate's Court under charge of a separate guard.—Reg. XX., 1817, sec. xix., cl. 5.

176. Witnesses to confessions shall invariably be bound over by the police darogahs to attend the magistrate on the arrival and examination of the prisoners at the sudder station, and the police-officers shall be careful not to admit of any deviation from this rule.—Reg. XX., 1817, sec. xix., cl. 6.

177. Prisoners during their detention at the thannah shall be confined within the thannah-house, or guard-room, or in some other convenient place of confinement, where they will not be exposed to the open air.—Reg. XX., 1817, sec. xix., cl. 7.

178. Stocks may be used at the thannahs during the night for the purpose of securing the persons of robbers and murderers, or other persons of dangerous character, or disorderly behaviour, or persons who may have escaped from custody, until they can be forwarded to the magistrate; but the darogahs are strictly enjoined, under pain of dismission from office, not to place any individual in the stocks, except during the night time, and then only in cases of robbery and murder, or of previous escape from custody, or when the notoriety of the prisoner's character or his behaviour may be such as to render this mode of confinement essential for his safeguard.—Reg. XX., 1817, sec. xix., cl. 8.

179. The darogahs of police shall be competent to use handcuffs of a light construction, to be provided by the magistrates (instead of fetters and ropes for the legs and arms), for the purpose of forwarding heinous criminals with safety to the Magistrate's Court.—Reg. XX., 1817, sec. xix., cl. 9.

180. The darogahs shall be held strictly accountable for any ill-treatment which prisoners may sustain whilst under their charge, and for any severity further than what may be essentially requisite for securing the persons of such prisoners.—Reg. XX., 1817, sec. xix., cl. 10.

181. Burkundauzes escorting prisoners shall, on ordinary occasions, journey at a rate not less than six or more than eight coss per diem.—Reg. XX., 1817, sec. xix., cl. 11.

182. When alighting at any village for the night, the police-officers having charge of prisoners shall report their arrival to the proprietor, farmer, or head man of the village, who shall point out a proper place for securing the prisoners during the night, and shall require the village watchmen to afford their aid in guarding them.—Reg. XX., 1817, sec. xix., cl. 12.

183. In cases in which the prisoners may be unable to support themselves during their

journey from the police thannah to the Magistrate's Court, the darogahs shall advance such amount for diet-allowance as may be necessary for their way-charges, not exceeding the rate of one anna per diem, reporting the same for the information and orders of the magistrate.—Reg. XX., 1817, sec. xix., cl. 13.

184. On the arrival of the prisoners at the sudder station, the burkundauzes charged with the despatch shall convey them to the foujdary nazir, or to such other native officer as the magistrate may appoint, in order that they may be secured in a lock-up house until the report of the case can be perused by the magistrate, till which time one or more of the burkundauzes who may have accompanied the prisoners shall remain in attendance, to be examined, if necessary, on any points relating to the case.—Reg. XX., 1817, sec. xix., cl. 14.

185. Prisoners who may be sent from the station of one district to that of another, or who may be sent by a magistrate into the mofussil, for the purpose of being discharged, shall, exclusive of other papers, be sent with a written despatch, unsealed, showing the name of the prisoner and his destination; and it shall be the duty of the darogahs to forward prisoners of this description according to the despatch which may accompany them, under charge of the police burkundauzes from thannah to thannah. A statement of all such cases, specifying the names of the prisoners and other particulars, shall be recorded in the thannah diary prescribed by paragraphs 64 to 78.—Reg. XX., 1817, sec. xix., cl. 15.

186. The darogah and other officers of police are prohibited, under penalty of immediate dismission from office, from detaining any prisoners, without sending them to the magistrate, beyond such time as may be indispensably requisite for the inquiries directed by this or any other Regulation; and if from any cause the inquiry cannot be completed within forty-eight hours after the arrival of a prisoner at the cutcherry or station of the police-officer, the person shall, notwithstanding, be sent to the magistrate, with a report of the case, and a chelan or despatch, drawn up according to the form No. 2 of the Appendix, a copy of which shall be given to the burkundauze under whose charge the prisoner may be forwarded, to be delivered to the nazir on his arrival at the sudder station.—Reg. XX., 1817, sec. xix., cl. 16.

187. The officers of police shall report to the magistrate the cases of all persons apprehended within their respective jurisdictions, whether such persons may have been admitted to bail, or otherwise; and no person who may be once apprehended shall be discharged, except on bail, or under the special orders of the magistrate.—Reg. XX., 1817, sec. xix., cl. 17.

*Rules relating to Notorious Offenders and to Vagrants, their Apprehension and Discharge.*

188. It shall be the duty of the darogahs of police to apprehend and forward to the magistrate all persons residing within their respective jurisdictions who may be notorious, as dacoits or robbers of any denomination; or as house-breakers, thieves, or receivers of stolen property.—Reg. XX., 1817, sec. xx., cl. 1.

189. On any written charge being preferred to a police darogah against individuals within his jurisdiction, of their being notorious robbers, burglars, thieves, or receivers of stolen property; or on the darogah's receiving credible information of such persons being within his jurisdiction, the darogah, or other police-officer presiding in the thannah jurisdiction, shall, previously to the apprehension of the accused, make such secret and summary inquiry in the neighbourhood as may be practicable, without endangering his escape, in regard to his general character and means of subsistence; and if there shall appear substantial grounds to believe that the charge or information is well founded, the darogah or other police-officer shall apprehend the person suspected, and shall examine him, without oath, regarding his name, connections, place of residence, occupation, and means of livelihood. If, on such examination, and any further immediate inquiry which may be practicable, there appear to be strong grounds of presumption that the charge or information against the prisoner is unfounded, or greatly exaggerated, and the prisoner shall tender sufficient bail for his appearance before the magistrate, such bail shall be accepted; or in failure thereof, as well as in all cases wherein the examination of the prisoner may tend to confirm the truth of the charge or information against him, he shall be forwarded under custody to the magistrate, together with a written report of the inquiry, including such particulars as may be necessary to enable the magistrate to form a just comprehension of the merits of the case.—Reg. XX., 1817, sec. xx., cl. 2.

190. The foregoing rule shall not be construed as authorizing the police-officers to make the sooruthals and inquiries regarding character provided for in the next paragraph, except under the special orders of the magistrate.—Reg. XX., 1817, sec. xx., cl. 3.

191. Whenever a police darogah may receive instructions from a magistrate to make a local inquiry and sooruthal, for the purpose of ascertaining the character of any person of bad fame or suspicious livelihood the darogah shall proceed himself, or shall depute the mohurrir or jummadar of the thannah to the village in which the suspected person may have been known to reside, and

the darogah, mohurer, or jemmadar, when not otherwise specially instructed by the magistrate, shall summon four or more of the principal inhabitants (not being females), or of the middling classes residing in the village, and shall question them, without oath or affirmation, respecting the present and former place of residence of the prisoner, his general character, means of subsistence, property in ploughs, land, cattle, and other goods and chattels; he shall also require them to state whether the individual suspected associates with persons of bad character, robbers, or armed men; and if so, the names of such persons; whether he is frequently absent from his house or place of residence at night without sufficient cause; whether his expenses are in proportion to or exceed his means; whether any person in the village bears the prisoner enmity, and whether the prisoner was ever before apprehended, and if so, on what account.—Reg. XX., 1817, sec. xx., cl. 4.

192. The sooruthal, containing the result of the inquiry above directed, shall be signed by the persons assembled, and if the result of the inquiry be favourable to the character of the prisoner, the darogah shall only forward his report, and await the orders of the magistrate; but if unfavourable, a sufficient number of the subscribing witnesses, not in any instance exceeding four (unless under the special orders of the magistrate), shall be immediately required to execute recognizances to appear and give evidence in the Foujdary Court.—Reg. XX., 1817, sec. xx., cl. 5.

193. Whenever a person of bad character may be liberated from custody, or may be released from jail, after the expiration of a specific sentence of imprisonment, and the magistrate may be of opinion, with reference to the character of the prisoner, that his future conduct should be watched, such individual shall be sent to the thannah division in which his habitation may be situated, and shall be released by the officers of the police, in the presence of the munduls, putwarries, and other head men and watchmen of the village to which the person liberated may belong, who shall be enjoined to afford him all practicable aid in procuring an honest livelihood; but at the same time to keep a vigilant inspection over his conduct and mode of living, and to give timely information to the police-officer of the jurisdiction in the event of his being absent from his village at night without giving notice of his intention, or of his associating with individuals of bad reputation, or of his ceasing to labour or to obtain a livelihood by creditable means; in all which cases they will be held responsible and liable to the penalty stated in the next paragraph, unless they give due information of the circumstances to the thannah.—Reg. XX., 1817, sec. xx., cl. 6.

194. On the occasion of releasing a prisoner under the provisions of the foregoing rules, the police darogah shall report to the magistrate the names of the munduls and other head men of the village present at the time of the prisoner's discharge; and if the person released should hereafter be convicted of any criminal offence, and if it be established that the head men of the place neglected to furnish the information required by the preceding paragraph, they shall be liable to the payment of a fine not exceeding one hundred rupees from each individual, commutable, in default of payment, to one month's confinement in the civil jail.—Reg. XX., 1817, sec. xx., cl. 7.

195. It shall be the duty of the darogahs of police to apprehend all vagrants and suspicious persons, of whatever denomination, wandering about the country in parties, or lurking about individually, without any fixed place of abode; or who, though resident in a particular place, may have no ostensible means of honest livelihood, and who, on examination, may be unable to give a satisfactory account of themselves.—Reg. XX., 1817, sec. xx., cl. 8.

196. Police darogahs receiving information of the resort of persons of the description specified in the preceding paragraph, shall, previous to their apprehension, make such summary inquiry as the nature of the case may admit, without risk to their escape; and in the event of strong suspicion attaching to them, shall secure their persons, and, unless on examination, without oath or affirmation, respecting their names, connections, place of residence, occupation, and means of livelihood, they can render a satisfactory account of themselves, shall forward them forthwith to the magistrate, together with a report of the circumstances under which they may have been arrested, and of the inquiry made.—Reg. XX., 1817, sec. xx., cl. 9.

197. In cases where the names of the vagrants or other suspicious persons cannot be ascertained, it shall be competent to the police darogah to apprehend such persons without a specific warrant, and in the event of any number of persons of this description being in sufficient force to resist the officers of the thannah, the darogah shall require the aid of the local zemindar, or other landholder or farmer, or of the police-officers of the adjacent thannah, or shall apply for assistance from the sudder station, according to the exigency of the case.—Reg. XX., 1817, sec. xx., cl. 10.

198. After the apprehension and examination of the persons suspected, should the information upon which the police darogah acted prove to be incorrect, and no sufficient reason appear for sending them to the magistrate, the darogah shall admit the parties to bail if they are able to furnish sufficient security, and shall report the circumstances to the magistrate, without sending them to the sudder station, till the receipt of an order to that effect.—Reg. XX., 1817, sec. xx., cl. 11.

199. In enforcing the provisions contained in the preceding rules, the darogah and other officers of police, and the village watchmen, shall be careful not to confound strangers coming from

the adjacent districts or countries, for the evident purpose of cultivating land or exercising their several professions, with vagrants or other suspected persons. On the contrary, the darogahs shall afford all due and reasonable encouragement to persons coming of their own accord into their respective limits, who may be desirous of settling therein from such industrious motives: the police-officers will nevertheless keep a watchful eye over such persons so long as it may appear necessary, and the darogahs will invariably report to the magistrate every instance that may come to their knowledge of an accession of this nature to the population of their respective divisions.—Reg. XX., 1817, sec. xx., cl. 12.

200. In addition to the powers vested in darogahs of police by paragraphs 184 to 189, with regard to the apprehension of all vagrants and suspicious persons, they are empowered to detain all persons travelling in bodies through their jurisdictions, or assembling therein, under circumstances leading to the suspicion that they are subjects of foreign states, who have assumed fictitious characters, or have assembled together in armed bodies for the purpose of committing robberies or other crimes within the British territories; and unless on examination they shall be able to give a satisfactory account of themselves, the darogahs shall without delay either report to the magistrates the circumstances under which they may have been detained, or in cases of an emergent nature shall forward such individuals to the magistrates.—Reg. III., 1821, sec. vii., cls. 1 & 2.

201. If a darogah of police, acting under the discretion vested in him by the preceding paragraph, shall not see sufficient cause, after the examination of the persons suspected, to send them to the magistrate or to detain them until the orders of the magistrate shall be received, but shall nevertheless entertain suspicions of their real character and intentions, he shall depute one or more police-officers to watch their proceedings in passing through his jurisdiction, and shall notify the same to the adjoining police division, in order that the same precautions may be adopted and followed up.—Reg. III., 1821, sec. vii., cl. 3.

202. If a darogah of police shall forward to the magistrate any persons travelling through or assembling in his division under suspicious circumstances, the magistrate, having duly inquired into the grounds of their arrest, shall either release them, or adopt the precautionary measures directed in the preceding paragraph; or if they appear to be travelling without any reasonable object, and to be inhabitants of a remote district, or subjects of a foreign state, he shall compel them to return, under a suitable guard, from station to station to the district or territory from which they may appear to have proceeded.—Reg. III., 1821, sec. vii., cl. 4.

203. The zillah and city magistrate shall examine all vagrants or suspected persons who may be lurking about his jurisdiction without any ostensible means of subsistence, or who cannot give a satisfactory account of themselves, and also any person who may have a knowledge of their usual place of residence, occupation, or mode of obtaining their livelihood; and if there shall appear to him grounds for supposing that they are disorderly or ill-disposed people, he shall employ them in repairing the public roads, or upon any other public work, until they find a security for their good behaviour in case of their being discharged, or until some creditable persons shall agree to entertain them in their service, or the magistrate shall be satisfied, from their deportment whilst in his custody, or other circumstances, that they will of themselves take to some service or employment so as to obtain an honest livelihood, in either of which cases the magistrate shall discharge them. If any person so apprehended shall make his escape from the custody of the magistrate before he is regularly discharged, and shall be re-apprehended, he shall be imprisoned and kept to hard labour for six months.—Reg. XXII., 1793, secs. x. and xxxiii.

### *Village Watchmen.*

204. It shall be the duty of the darogahs of police, under the guidance and instruction of the magistrate, to prepare and keep up at their thannahs a complete register of the village watchmen employed within the limits of the authority of the said darogahs respectively, drawn out after the form No. 6 of the Appendix; and upon the death or removal of any of the watchmen, the landholders and other persons to whom the right of nomination to such vacancies shall belong, shall send the names of the persons whom they may appoint to the darogah of the jurisdiction, that they may be registered by him as above directed.—Reg. XX., 1817, sec. xxi., cl. 1.

205. The village watchmen are declared subject to the orders of the police darogahs.—Reg. XX., 1817, sec. xxi., cl. 2.

206. Village watchmen who may reside within one coss of the thannah station to which they may be subject, shall report daily to the thannah all occurrences connected with the police which may have happened in their respective villages during the preceding twenty-four hours; village watchmen residing from one to three coss distant from the thannah shall furnish similar reports twice every week; and all other watchmen whose residence may be situated at a greater distance

shall report once in every week or fortnight, as they may be specially instructed by the police darogah so to do.—Reg. XX., 1817, sec. xxi., cl. 3.

207. All occurrences reported by the village watchmen shall be recorded by the mohurers in the thannah diaries; but it shall not be considered necessary to enter in such diaries the reports of watchmen who have no communication to make further than that the peace of their divisions has been undisturbed since their last report.—Reg. XX., 1817, sec. xxi., cl. 4.

208. The village watchman shall apprehend and send to the darogah, or other police-officer presiding at a thannah, any person who may be taken in the act of committing murder, robbery, housebreaking or theft; also proclaimed offenders, and persons against whom a hue and cry shall have been raised of their having been concerned in a recent criminal offence. It shall further be the special duty of the village watchmen to convey to the thannah immediate intelligence of any robbers who may have concealed themselves in their respective villages, or in the adjacent country; and also of any vagrants, or other persons who may be lurking about the country without any ostensible means of subsistence, and who cannot give a satisfactory account of themselves. It shall likewise be the business of the village watchmen to convey early intimation to the thannah of all murders, robberies, burglaries, thefts, violent affrays, and other heinous offences, perpetrated in the villages or places in which they may be stationed.—Reg. XX., 1817, sec. xxi., cl. 5.

209. The report of the village watchmen to the police-officers of the regular establishments shall be made verbally; and they shall not, unless they appear as prosecutors, be sworn to their depositions at the thannahs, or be detained at the thannahs, or sent into the Magistrate's Court, unless on account of misconduct, or under the special orders of the magistrate.—Reg. XX., 1817, sec. xxi., cl. 6.

210. Darogahs of police shall invariably ascertain and report, when making inquiries on the occasion of any robbery, burglary, or theft, the conduct of the village watchmen; and whether they were present at their posts when the offence was perpetrated; if not, the cause of their absence, and whether there may be reason to believe that they were themselves concerned in, or connived at, the commission of the crime. In the event of any neglect or suspicion of criminality attaching to a village watchman, the darogah shall either send the individual to the magistrate, with a separate report of the grounds of the charge exhibited against him, and evidence to establish the same, or shall forward a report in the first instance, and wait the instructions of the magistrate, as the nature of the alleged offence may dictate. In the event of any gross neglect or misconduct in the discharge of his duty as a police-officer being established against a village watchman, he shall be liable to dismission from his station by order of the magistrate, independently of any punishment to which he may be subject for specific acts of criminality, under the laws and Regulations in force.—Reg. XX., 1817, sec. xxi., cl. 7.

211. The darogahs or their police-officers are prohibited, under penalty of dismission from office, from employing the village watchmen on their private concerns, or on any duties unconnected with the police.—Reg. XX., 1817, sec. xxi., cl. 8.

212. In those towns and villages where the darogahs of the mofussil police jurisdiction, or the officers of outposts, may be stationed, the duties of watching and patrolling shall be performed conjointly by the regular police-officers and the village watchmen; and private watchmen, entertained by individuals for guarding their habitations, shops, or warehouses, shall also afford their assistance, and be considered subject, in the performance of this duty, to the orders of the police darogahs of the station.—Reg. XX., 1817, sec. xxi., cl. 9.

213. On the occurrence of a gang or highway-robbery, or any robbery by open violence, murder, burglary, or theft, attended with wounding, or any other heinous offence attended with a violent breach of the peace, the village watchmen shall, to the utmost of their ability, resist and endeavour to apprehend the offenders, and shall require the head men of the village to collect the inhabitants, and to oppose and seize the criminals, or to pursue them if they have fled; and it shall be incumbent on the inhabitants of the villages through which, or near to which, the pursuit may lay, to afford, on the requisition of the village watchmen or other police-officer, every practicable assistance towards the apprehension of the robbers or other offenders, and recovery of any property stolen or plundered by them, continuing the pursuit from village to village. Any head man or watchman of a village who may be convicted before the local magistrate of wilful inattention to such requisition shall be liable to fine and imprisonment, not exceeding the limitation prescribed by Section xix. Regulation IX., 1807 ("MAGISTRATES," paragrapn 51).—Reg. XX., 1817, sec. xxi., cl. 10.

*Concurrent Jurisdiction of Police Darogahs.*

214. Whenever a police darogah may receive intelligence of any murder, gang-robbery, or other heinous crime having occurred within his jurisdiction, the perpetrators of which may not have been apprehended, he shall despatch immediate information of the occurrence to the neigh-

bouring police darogahs, both in the district in which his thannah may be situated and in the adjacent districts.—Reg. XX., 1817, sec. xxii., cl. 1.

215. The darogahs and other police-officers are empowered, either under the warrant of the magistrate, or without such warrant, to pursue persons charged with the crimes above mentioned into the jurisdiction of other darogahs, whether subject to the same magistrate or to the magistrate of any other zillah or city; and the magistrates, darogahs, police-officers, landholders, farmers, gomashtahs of villages, cultivators of land, and all other persons having authority, or residing in the jurisdiction into which the offenders may be pursued, are required to afford every assistance in their power to the pursuing officers, for the apprehension of the offenders.—Reg. XX., 1817, sec. xxii., cl. 2.

216. It is to be understood, however, that this concurrent authority is to be exercised by the police-officers only in those cases in which the crime shall have been committed within their own respective jurisdictions; or in the event of the crime having been committed in any other jurisdiction, when the offender shall be actually within their jurisdiction at the time the charge may be preferred to them: and it shall not be lawful for the daroguh of one zillah or jurisdiction to issue a warrant for the apprehension of an offender being or residing in another zillah or jurisdiction at the time of a complaint being preferred, for any crime not committed within the limits of his own jurisdiction. In such cases, the complainant must apply, in the first instance, to the magistrate of the zillah, or to the darogah of the jurisdiction, in which the crime or misdemeanor shall have been committed, or in which the offender may reside or be found. But should the complainant first prefer a written application to the darogah of another jurisdiction, such darogah shall record in his diary the name of the complainant, the nature of the charge, and the date on which the complaint may have been referred to another darogah. The date and ground of such reference shall also be indorsed upon the application to be returned to the complainant.—Reg. XX., 1817, sec. xxii., cl. 3.

217. Whenever the police-officers employed under one magistrate shall apprehend offenders in the jurisdiction of another magistrate, in virtue of the powers vested in them by the preceding rules, they shall immediately deliver to the darogah of the police jurisdiction in which the offenders may be apprehended, a list of their names, and a statement of the crimes or misdemeanors with which they may be charged; and the latter darogah shall immediately forward such list and statement to the magistrate to whose authority he may be subject.—Reg. XX., 1817, sec. xxii., cl. 4.

218. The police darogahs, in pursuance of Section xv., Regulation I., 1804, are empowered to issue process within the limits of the invalid thannahs in the same manner as in other parts of the country.—Reg. XX., 1817, sec. xxii., cl. 5.

### *Prosecutors and Witnesses.*

219. Subpœnas to prosecutors and witnesses shall be drawn out according to the form No. 11 of the Appendix, and shall be served by a single burkundauze; but the darogahs are strictly prohibited from delivering summonses to parties or their agents to be served on their own witnesses.—Reg. XX., 1817, sec. xxiii., cl. 1.

220. Prosecutors and witnesses, whose attendance may be necessary at the Criminal Courts, shall execute recognizances (mochulkas) according to the form No. 12 and No. 13 respectively of the Appendix, before the police-officers, to appear before the magistrate on a specific day, which shall be the day whereon the party accused may be bound to appear if he shall have been admitted to bail, or on the day on which he may be expected to arrive at the magistrate's place of residence if he is to be forwarded thither under custody: the police-officer in whose presence the recognizance may be executed shall forward it, with his report, to the magistrate, and shall deliver to the prosecutor or witness a despatch addressed to the magistrate, which the prosecutor or witness shall be required to deliver in person to the magistrate, unaccompanied by any officer of police.—Reg. XX., 1817, sec. xxiii., cl. 2.

221. The police-officers are prohibited from subjecting prosecutors to any degree of restraint, unless their complaints should appear, on inquiry, to be false and malicious; in which case, the circumstances shall be reported to the magistrate, and the complainant shall be required by the darogah to furnish bail for his appearance before the magistrate; in the event of his not conforming to such requisition, he shall be forwarded under custody to the Foujdary Court.—Reg. XX., 1817, sec. xxiii., cl. 3.

222. The officers of police are strictly enjoined not to subject witnesses to any restraint or unnecessary inconvenience, nor to require them to give security for their appearance; but if any witness shall refuse to attend or to execute the recognizance directed in paragraph 220, it shall be competent to the darogah or other police-officers presiding at the thannah to forward such witness under custody to the Magistrate's Court.—Reg. XX., 1817, sec. xxiii., cl. 4.

*Summons.*

223. On a complaint being preferred in writing to a darogah, or to any other officer of police authorized to receive the same, against a person subject to his jurisdiction, for any bailable crime or misdemeanor declared by this Regulation to be cognizable by the native officers of police, and which may not require the immediate apprehension of the accused, the police-officer receiving such complaint, upon the party complaining making oath (or a solemn declaration, if the party be of a rank or caste which would render it improper to compel him to take an oath) to the truth of the complaint, or without such oath or declaration, if satisfactory reason be assigned by the complainant for not attending to make the same, and the truth of the charge be deposed to on oath, or under solemn declaration, by some other credible person or persons, shall issue a summons under his official seal and signature, to be served through a single burkundauze, or through any known and accredited agent of the party complained against, who may be on the spot and willing to receive the same in behalf of his principal, but no summons shall be delivered to a complainant to serve on the person accused —Reg XX, 1817, sec xxiv, cl 1

224 Police-officers intrusted with the service of summonses in cases wherein bail may not be required, shall demand only an acknowledgment of the receipt of the process; and in the absence of the party, the summons may be served on the principal person in his house or family, if such person be willing to receive the same, and to return an acknowledgment for the party whose attendance is required —Reg XX, 1817, sec xxiv, cl. 2

225 The summons to be issued by police-officers under the rules contained in the preceding paragraphs shall be made out in the form No. 15 of the Appendix, but if the charge be of a serious nature, and such as may appear to require bail to secure the appearance of the party accused, either in person or by vakeel before the magistrate, the summons shall be drawn up according to form No 16, and shall specify the bail to be given, which is in no case to exceed what may be sufficient to prevent the parties absconding before the case shall come before the magistrate, who will then issue such further process or order as he may judge proper.—Reg XX, 1817, sec xxiv, cl 3

226 If an accused person on whom a summons shall have been served as directed in the preceding rules shall not attend in person or by vakeel, and give bail (if required) according to the exigency of the summons within the period limited by it, the darogah shall issue a warrant (according to the form No 17 of the Appendix), under his official seal and signature, for the apprehension of his person.—Reg XX., 1817, sec xxiv., cl 4

227. Whenever any process may be issued by a magistrate or darogah of police for the attendance of any prosecutor or witness, or for the apprehension of any defendant (not being a proclaimed offender), and such person may be absent, or may have absconded, the police-officer intrusted with the process shall require the proprietor, manager, or head person of the village in which the person summoned may be said to reside, to furnish a written certificate of the individual's absence, engaging therein either to cause the attendance of the individual summoned on his return to his village, or to give information at the thannah of his arrival —Reg XX., 1817, sec. xxiv, cl 5.

228 Should it afterwards be established, on inquiry before the magistrate, that the person summoned was actually in the village at the time of the execution of a certificate of the above description, or should it be proved that he returned to the village afterwards, and that the person executing the certificate had wilfully neglected to give due intimation of his return to the officers of the police, the person so offending shall be liable to be fined by the magistrate in any sum not exceeding two hundred rupees, and in default of payment to be confined in the civil jail for any period not exceeding one month —Reg XX, 1817, sec xxiv, cl 6.

*Arrest of Persons and Bail*

229 Upon a complaint being preferred in writing to a darogah, or other police-officer authorized to receive the same, or on the receipt of credible information, whether given by confessing prisoners against accomplices, or by other persons against any person subject to his jurisdiction, for any crime of a heinous nature, such as murder, robbery, housebreaking, maiming, wounding, theft, setting fire to a village, house, or other building, counterfeiting the current coin, or knowingly uttering base coin, or any crime involving a dangerous breach of the peace, such as a violent affray, or assembling persons to commit an affray, or any similar offence requiring the immediate apprehension of the offender, and on the complainant or any other credible person or persons acquainted with the case deposing on oath (or under a solemn declaration) to the truth of

the complaint, the darogah shall examine the complainant or party deposing regarding the circumstances of the case; and on his being satisfied from the particulars communicated that there are grounds to believe that the charge is well founded, and that the immediate apprehension of the offender is necessary to the ends of justice, the darogah or other police-officer, by a warrant under his seal and signature, drawn out according to the form No. 17 of the Appendix, shall cause the person accused to be apprehended and sent in safe custody to the magistrate within forty-eight hours after his apprehension, unless any special reason appear why the issue of process for apprehending the party accused should be stayed until the charge be reported for the orders of the magistrate, in which case such report shall be made without delay.—Reg. XX., 1817, sec. xxv., cl. 1.

230. Darogahs and other police-officers are further empowered to postpone apprehending and forwarding to the magistrate persons charged with thefts, whether attended with burglary or otherwise; provided it shall appear that the offenders shall not have used any personal violence in the occurrence, and provided that the parties against whom the offence shall have been committed shall express their desire that the offenders shall not be apprehended and conveyed before the magistrate; provided, also, that the offenders have not previously been actually guilty of or suspected of having committed theft, or burglary, or robbery.—Reg. XII., 1818, sec. vii., cl. 1.

231. Every case of this nature shall be fully and immediately reported by the police-officers to the magistrate, who will either call for any further information which he may judge proper, or will at once determine, according to the circumstances of the case, whether it is or is not necessary, for the ends of justice, that the charge should be regularly investigated, and will issue his orders accordingly.—Reg. XII., 1818, sec. vii., cl. 2.

232. In the exercise of that discretion, the magistrate will be governed by any extenuating circumstances which may appear, such as the youth of the offender, his having been prompted to the offence (more especially in times of scarcity and famine) by extreme distress, and by his character appearing to have been previously respectable: under less favourable circumstances, the magistrate will also attend to the important object of preserving the honour of families when the offender may be nearly connected with the party who has suffered the injury, and the latter may be anxious to exempt the offender from the infamy of a public ignominious punishment.—Reg. XII., 1818, sec. vii., cl. 3.

233. Warrants issued by the police darogahs shall be served by the jummadar and burkundauzes of the thannah, and the mode of execution shall be certified on the back of the process, which shall be filed and sent in to the magistrate, together with the report and chelan which may accompany the prisoners.—Reg. XX., 1817, sec. xxv., cl. 2.

234. In issuing processes of arrest in cases in which the darogah of police may apprehend resistance, or on any occasions where the assistance of the landholders, or farmers, or their local agents, may be necessary for the due execution of the process, the darogah shall, on the face of the dustuck, or warrant, specifically require, in writing, the proper landholder or farmer, or local agent (as the case may be), to back the process, and to afford their aid for effecting its due execution.—Reg. XX., 1817, sec. xxv., cl. 3.

235. Darogahs, mohurrirs or jummadars of the police, shall be competent to apprehend, without a written charge or warrant, persons who may be found in the act of committing a breach of the peace, or against whom a general hue and cry may be raised immediately after the commission of the criminal offence, or who shall be detected with stolen goods in their possession; but on such occasions it shall be incumbent on the officer of police by whom the arrest may be made to record his reasons for seizing the offending party, and to forward such person forthwith, together with a report of the circumstances of the case, to the magistrate of the district.—Reg. XX., 1817, sec. xxv., cl. 4.

236. Officers of police shall not without necessity break open the door of a dwelling-house, or of any place of habitation, for the purpose of executing a warrant or other process of arrest. But if certain information be received that a person charged with murder, robbery, or other heinous offence, or violent breach of the peace, and against whom a warrant or other process of arrest may in consequence have been issued, is concealed within a house or other building, and such person shall not deliver himself up on the requisition of the police-officer, bearing a written warrant and the written process to apprehend him, the latter may, in the presence of two or more creditable inhabitants of the place, break open the outer door of the house, or other building, and also the door of any interior apartment, not being a zenanah or female apartment in the actual occupancy of women, by the usage of the country considered private, for the purpose of executing the warrant, or other process of arrest intrusted to him.—Reg. XX., 1817, sec. xxv., cl. 5.

237. In such cases, if information be received that the person accused has concealed himself in a zenanah or female apartment, in the actual occupancy of women, the police-officer employed to execute the warrant shall surround the house, or take such other precaution as may be requisite to prevent the escape of the accused; and shall endeavour to ascertain, by the means of two creditable women, unconnected with the family or with each other, whether the person against

whom the warrant has been issued be really concealed in the zenanah; in which case, and if such person shall not on a further requisition deliver himself up, it shall be competent to the police-officer, in the presence of two or more creditable residents on the spot, to break open the female apartment and execute the process intrusted to him, giving notice at the same time to any women in the zenanah, that they may be at liberty to withdraw.—Reg. XX., 1817, sec. xxv., cl. 6.

238. Any wilful abuse and perversion of the powers vested in police-officers for the ends of public justice will subject them, on conviction before the magistrate or Sessions Court, to exemplary punishment, according to the circumstances of the case, besides immediate dismission from office.—Reg. XX., 1817, sec. xxv., cl. 7.

239. Persons charged with the commission of murder, robbery, housebreaking, theft, setting fire to any house or village, counterfeiting the coin, maihem, or serious wounding, where the life of the party wounded may be in danger, shall not be admitted to bail, provided that there may appear reasonable grounds for believing that such persons have been guilty of the crime imputed to them; but in all other cases, if sufficient bail be tendered for appearance before the magistrate, the darogah or other police-officer shall accept such bail, and shall immediately release the party apprehended.—Reg. XX., 1817, sec. xxv., cl. 8.

240. The bail to be taken for appearance before the magistrate, in pursuance of the preceding rules, shall be in the form No. 18 of the Appendix.—Reg. XX., 1817, sec. xxv., cl. 9.

241. Persons who may wound or slay murderers, robbers, or thieves, in their own defence, or in defence of their property, shall not be proceeded against or placed in restraint, or required to give bail, except under the special orders of the magistrate; police-officers are strictly prohibited from acting in violation of the rule, under penalty of dismission from office.—Reg. XX., 1817, sec. xxv., cl. 10.

242. In cases of manifest necessity, when the darogah or other officer of police may be apprehensive of danger to the public tranquillity, by the enlargement of a person arrested on a charge of affray, violent assault, or other bailable offence, without security being taken for his peaceable conduct, the party apprehended shall be required, in addition to the bail for his appearance, to furnish security for keeping the peace, and the surety (or sureties) shall execute a recognizance according to the form No. 19 of the Appendix, in an amount to be regulated by the circumstances of the case, and the condition of the person executing the same.—Reg. XX., 1817, sec. xxv. cl. 11.

NOTE.—Section xxvi., Clauses First to Fourteenth, are under the head "Resistance to process;" and Clause Fifteenth under "Rewards."

### *Distraint for Arrears of Land-rent.*

243. Landholders, farmers, and their local agents, or other persons empowered by the Regulations to distrain for arrears of land-rent, who may be opposed, or who may be apprehensive of resistance in effecting the regular distraint, or in maintaining possession of property previously distrained, are authorized to apply to the darogah of the thannah in whose jurisdiction the property may be, for assistance in making or maintaining the regular distraint; and the darogah, in order to support the distrainer and to prevent a breach of the peace, shall, on the distrainer certifying on oath, or by a solemn declaration, the opposition he has experienced, or the resistance which he apprehends, depute a muzkooree peon, with a written process, bearing the seal of the thannah, and signature of the darogah, and drawn up according to the form No. 20 of the Appendix.—Reg. XX., 1817, sec. xxvii., cl. 2.

244. It shall be the duty of the muzkooree peon to exhibit to the defaulter the process prescribed by the preceding paragraph, and to use every means in his power to prevent resistance or other breach of the peace; and unless the arrear is liquidated, to support the distrainer in the exercise of the powers vested in him by the Regulations. He shall also give due attention to the whole conduct and proceedings of the distrainer, so as to be able to give evidence thereon, if afterwards required, either before the judge or magistrate.—Reg. XX., 1817, sec. xxvii., cl. 3.

245. Whenever any peon, deputed under the foregoing rules, may depose that he has been opposed in the execution of such duty, or the darogah may be satisfied, from the representation made on oath or affirmation by the distrainer, in the first instance, that any resistance has been offered, amounting, or likely to amount, to a breach of the public peace, the darogah of police shall either proceed in person, or shall depute the mohurrir or jummadar of the thannah to support the distrainer and maintain the peace. He shall also proceed in person, or depute the mohurrir or jummadar of the thannah, whenever it may be proposed by a distrainer, under the powers vested in him by the Regulations, to force open the outer door, or to search the private apartments of a dwelling-house in which the distrainable property of a defaulter may appear to have been concealed.—Reg. XX., 1817, sec. xxvii., cl. 4.

246. The regular burkundauzes of the police establishment shall not be employed to aid

distrainers for arrears of land-rent, except in cases where the darogah, mohurrir, or jummadar, may proceed in person under the rules above prescribed.—Reg. XX., 1817, sec. xxvii., cl. 5.

247. The landholders, farmers, and other local agents, and indigo-planters, and other persons, are prohibited from using stocks, or any other instrument of restraint, for the purpose of confining ryots, or other individuals indebted to them, on any account whatever; and the darogahs of police shall report to the magistrates, for such orders or process as may appear proper under the general Regulations, all instances which may come to their knowledge of a violation of this rule.—Reg. XX., 1817, sec. xxvii., cl. 6.

248. Whenever any muzkooree peon, not receiving wages from Government, may be employed by a police darogah under the provisions of this Regulation, he shall receive tulubana, or diet-allowance, from the person at whose instance he may be employed, at the rate of two annas per diem; and the darogah shall not issue any process by the hands of a muzkooree peon until the estimated amount of the tulubana required for the fixed allowance of the peon at the above rate, during his employment, is deposited in advance; the darogahs are enjoined to prevent the muzkooree peon from demanding or receiving, directly or indirectly, from any party, in cases in which they may be employed, any allowance or gratuity exceeding the above rate, and shall report to the magistrate any instances which may come to their knowledge of the violation of this rule.—Reg. XX., 1817, sec. xxvii., cl. 7.

*Aid to be afforded to Officers of the Abkary Department.*

249. Whenever an officer on a collector's establishment, duly authorized to distrain property on account of arrears of revenue due from any manufacturer or vendor of spirituous liquors, tarry, putchwye, or intoxicating drugs, including opium, may be resisted in the enforcement of the collector's process, he shall, on certifying such resistance on oath or affirmation before a darogah of police, receive the aid of the regular police-officers of the thannah in effecting their attachment; and the police-officers shall be guided in their proceedings, in regard to entering and searching houses for property belonging to defaulters, by the rules prescribed in this Regulation, for their conduct, in cases of distraint for arrears of land-rent, as far as the same may be applicable.—Reg. XX., 1817, sec. xxviii., cl. 1.

250. Darogahs of police shall, as directed in Section xxiv., Regulation X., 1813 ("Abkary," paragraphs 117 to 121), support the officers of the abkary mehaul, in the execution of search-warrants, issued under the seal and signature of the collector, for the discovery of unlicensed stills, or of the produce of such stills.—Reg. XX., 1817, sec. xxviii., cl. 2.

251. It is provided in the Regulation cited in the preceding paragraph, that such search-warrants shall be executed only in the day time, that is between sunrise and sunset, and if possible, in the presence of two or more respectable inhabitants of the village in which the house or place proposed to be searched may be situated. It is further provided that, in the execution of such warrants, the apartments of the women, in houses belonging to persons of respectability and credit, that is, of all those classes whose women do not ordinarily appear in public, shall not be entered by the collector's officers, or by the officers of the police.—Reg. XX., 1817, sec. xxviii., cl. 3.

252. The licensed vendors of spirits and drugs are bound by the conditions of their licenses not to harbour robbers, thieves, or riotous persons, nor to receive any goods or wearing apparel in barter for liquors or drugs; they are also bound not to open their shops before sunrise, nor keep them open after sunset, and are enjoined not to harbour any person in their shops during the night, but to give information to the nearest magistrate or police-officer of any suspected persons who may resort to their shops.—Reg. XX., 1817, sec. xxviii., cl. 4.

253. The darogahs of police are enjoined to report to the magistrate any breach of the foregoing conditions which may come to their knowledge. They will also proceed against any licensed vendor of spirits or drugs who may be charged with a criminal offence cognizable by them, according to the general rules in force, which are applicable to the charge.—Reg. XX., 1817, sec. xxviii., cl. 5.

254. Cutwals, darogahs of police, cutwals of military bazaars, and other native officers invested with local jurisdiction, who may authorize, support, countenance, or connive at the establishment of any unlicensed shop or shops, in any place subject to their control or influence, shall, besides being liable to dismission from office, be further subject, on conviction before the magistrate of the zillah, to the payment of a fine not exceeding five hundred rupees: the fine, if not duly paid, shall be commutable to imprisonment for a period not exceeding six months.—Reg. VII., 1824, sec. xiii., cl. 2.

255. Any person giving information by which a native officer shall be prosecuted to conviction, shall be entitled to a moiety of the fine which may be levied from the offender. But should it appear on investigation that the information originated in malice, or in motives clearly vexatious

and unwarrantable on the side of the informant, it shall be competent for the officer by whom the case may be tried to impose such a fine as may appear to be reasonable, not exceeding, however, in any case, fifty rupees, or to order the offender to be imprisoned for a period not exceeding fifteen days.—Reg. VII., 1824, sec. xiv.

*Execution of Criminal Process in the Salt and Opium Departments; and Duties of Darogahs relating to those Departments.*

256. In all bailable cases, where it may be necessary, under the provisions of this Regulation, to summon or apprehend any manufacturer, molungee, or any officer or person employed in the salt or opium department, the darogahs of police shall transmit the summons or warrant, under a sealed cover, addressed to the salt or opium agent, or the head native officer of the aurung, kothee, or chokee, who will either give, or direct sufficient security to be given, for the due attendance of the party, certifying on the back of the process the manner in which it has been served, and by whom the security has been given, or causing the defendant to accompany the officer bearing the darogah's process to the thannah —Reg XX, 1817, sec. xxix, cl. 1.

257. In cases of bailable nature, in which a person under engagements, and employed in the salt or opium department, may be summoned under the provisions of the preceding paragraph, during the manufacturing season, the darogah of police shall, with the view of preventing unnecessary interruption to the manufacture, require the party summoned to appear in person or by vakeel, either during or after the manufacturing season, as the circumstances of the case may dictate, subject to the future orders of the magistrate, to whom the darogah shall in each instance report the reasons which may have influenced him in the exercise of the discretion here vested in him.—Reg XX., 1817, sec. xxix., cl. 2.

258. Summonses to manufacturers, molungees, officers, or persons employed in the salt or opium department, to attend as witnesses, shall be served in the manner directed by the preceding rules; but the salt or opium agent, or the head native officer of the aurung, kothee or chokee, shall, instead of requiring the person summoned to give security, or proceed to the thannah, take from the witnesses a recognizance agreeable to the form No. 13 of the Appendix, and shall deliver the same to the officer serving the process —Reg. XX, 1817, sec. xxix, cl. 3.

259. If a charge shall be preferred to a police darogah against any molungee, or any other manufacturer, or any officer or person employed in the salt or opium department for an offence that is not bailable, and there shall appear to the darogah of police sufficient ground under the provisions of this Regulation for apprehending the person so charged, the warrant for his apprehension shall require him to attend immediately in person, and shall be executed in the same manner as upon persons not so employed. But the darogah, after securing the offender, is to give notice of his apprehension to the salt or opium agent, or to the head officer of the nearest aurung, kothee or chokee, as the case may be.—Reg XX., 1817, sec. xxix, cl. 4.

260. The officers of police, as required, shall comply with applications made to them by a salt agent or superintendent of a salt chokey, or by the officers attached to the salt department, or by any agent, or collector of revenue or customs, for assistance in effecting the seizure of alimentary salt illegally imported, manufactured, sold or transported, and also for the seizure of adulterated common alimentary salt, and for the attachment of the cattle, carriages, or boats used in transporting such salt.—Reg XX., 1817, sec xxix., cl. 5.

261 If any officer of police shall receive information of any salt not made in the Company's provinces having been illegally imported into the said territories, or of salt of any description being transported without the proper rowannahs or char chittees, or of any salt being manufactured on account of individuals, by molungees or other persons, at the khalarees or salt-works established by individuals for the purpose of manufacturing salt on their own account or that of any other person, or of the adulteration of alimentary salt, by mixing with it the substance called "karee noon," or other substance, such as "natron," or native fossil alkali, or the vegetable alkali or potash, such police-officers shall transmit immediate notice thereof to the nearest officer in the salt department empowered to attach contraband or adulterated salt, and to the magistrate to whose immediate orders the said police-officer may be subject.—Reg. XX., 1817, sec. xxix., cl. 6.

262. The police-officers shall confine themselves to sending the information aforesaid to the nearest officer in the salt department, and to the magistrate, and to assisting in the seizure of the salt, either under the orders of the magistrate, or on application from the officers of the salt department; and shall not seize or detain any salt in the first instance of their own authority, except when they may have been vested by order of the Governor-General in Council with special authority for making such seizures, in which case they will receive separate instructions for their guidance in the performance of that duty.—Reg. XX., 1817, sec. xxix., cl. 7.

263. In all cases in which it may appear that an attachment or seizure of salt has been made

by an officer of police without the special orders of the magistrate, or an application from any public officer authorized to require the assistance of the police-officer by whom such attachment may be made, he shall be liable to dismission from office, and on the institution of a regular suit in the Dewanny Adawlut on the part of the proprietor, to the payment of full damages to the whole amount of the loss and expense to which the proprietors may have been subjected.—Reg. XX., 1817, sec. xxix., cl. 8.

264. All officers of police are strictly enjoined, under pain of dismission from office, to assist in suppressing the illicit cultivation, manufacture, sale, purchase, importation, transportation, or possession of opium, as required by the provisions of Regulation XIII., 1816, which are herein recapitulated for their information and guidance.—Reg. XX., 1817, sec. xxix., cl. 9.

265. Whenever a police darogah shall obtain intelligence of any land within his jurisdiction having been cultivated with the poppy, except with the permission or on account of Government, he shall immediately proceed to the spot, and, if the information be correct, shall attach the crop so illegally cultivated, and report the same to the magistrate.—Reg. XX., 1817, sec. xxix., cl. 10.

266. Such police-officer shall at the same time take security from the cultivator of the ground for his appearance before the collector or other officer in charge of the abkarry mehaul; and in the event of the cultivator not giving the required security he shall send him in custody to the magistrate, with the necessary witnesses, to prove the quantity of land which may have been cultivated by him with the poppy.—Reg. XX., 1817, sec. xxix., cl. 11.

267. Any police darogah who shall knowingly permit the cultivation of the poppy within his jurisdiction, or who shall be convicted of conniving in any respect at the illicit cultivation of the poppy, shall, besides being liable to dismission from office for neglect of duty, be further subject, on conviction before the magistrate of the zillah, to the payment of the fine stated in Section XXXI., Regulation XIII., 1816 ("Opium," paragraph 36), for whatever quantity of land shall have been so illegally cultivated within his jurisdiction with his knowledge or connivance; and the fine, if not duly paid, shall be commutable to imprisonment for a period not exceeding six months.—Reg. XX., 1817, sec. xxix., cl. 12.

Note.—See "Salt," paragraphs 89, 90, 94, and 112; "Opium," paragraphs 48 and 112.

*Miscellaneous Rules regarding Forts, armed Men, Military Stores, Dress of Sepoys or Lascars, and Badges, public Roads, and insane Persons.*

268. The darogahs of police shall uniformly report to the magistrates whenever any individuals within their respective jurisdictions may entertain in their service any extraordinary number of armed men, or may commence building or repairing any fort or gurhee, or collecting together any quantity of arms, ammunition, or military stores.—Reg. XX., 1817, sec. xxx., cl. 1.

269. The darogahs of police are required to apprehend and send to the magistrate, in pursuance of the rules contained in the following paragraphs, all persons not actually in the Honourable Company's military service, or belonging to persons specially exempted by Government from the operation of the rule contained in the section above mentioned, who may be found dressed in the uniform of the Company's sepoys or lascars, or in a dress so nearly approaching to that uniform as to enable the persons wearing it to impose themselves on the country-people for sepoys and lascars.—Reg. XX., 1817, sec. xxx., cl. 2.

270. Native officers and sepoys, excepting subadars, jemadars, and serangs, even though in the service of the Company, who may temporarily reside in or have occasion to travel into the interior parts of the country, being forbidden by paragraph 274, unless employed on the public service, to wear their uniform coats: the local officers of police are empowered and directed to apprehend all persons of the above description violating this prohibition, and to send them to the magistrate.—Reg. XX., 1817, sec. xxx., cl. 3.

271. All persons, whether European or native, within the Company's provinces (excepting such privileged persons as the Government may specially exempt from the operation of the rule contained in this paragraph) are positively forbidden to dress any of their servants, either for the purpose of parade or of business, in the uniform of the Company's sepoys and lascars, or in a dress so nearly approaching to that uniform as to enable the persons wearing it to impose themselves on the country-people for sepoys and lascars.—Reg. XI., 1806, sec. ix., cl. 2.

272. All natives, excepting those actually in the military service of the Company, or belonging to persons specially exempted by Government from the operation of this rule, are forbidden to wear a dress similar to that mentioned in the foregoing paragraph.—Reg. XI., 1806, sec. ix., cl. 3.

273. Officers of every description employed in the service of the Company, who are allowed establishments of burkundauzes, peons, and pykes in their official capacity, or who may have occasion to employ persons of any of those descriptions in such capacity, are prohibited from clothing them with a military dress.—Reg. XI., 1806, sec. ix., cl. 4.

## POLICE.—DUTIES OF NATIVE POLICE OFFICERS

274. Native officers and sepoys, excepting subadars, jemadars, and serangs, even though in the service of the Company, who may temporarily reside or have occasion to travel in the interior parts of the country, unless employed on the public service, are forbidden to wear their uniform coats —Reg XI., 1806, sec. ix, cl 5.

275. With the view of giving full effect to the orders contained in the preceding clauses, the military commanding officers of stations and of detachments in the interior parts of the country, and the several zillah and city magistrates, are hereby authorized and required to deprive of a military dress any person who shall wear it contrary to these orders, unless it shall appear that such person is in the military service of the Company; in which case he shall be sent to the corps to which he may belong, with a written complaint against him. The local officers of police are also empowered and directed to apprehend all persons of the above description, and to send them to the magistrate, who will deal with them in the manner above prescribed.—Reg. XI., 1806, sec. ix., cl. 6.

276. Military officers, or other persons to whom escorts may be allowed, when travelling through the country by land or proceeding by water, are forbidden to send sepoys or lascars into the villages for the purpose of procuring any sort of provisions, or of pressing bearers or boatmen. Every local officer of police, upon proper application, will, under Section VIII of this Regulation, grant such assistance as he may be able to afford, and all violent measures, therefore, will be considered equally illegal and unnecessary —Reg XI., 1806, sec. ix., cl. 7

277. No person shall wear, or be accessory to the wearing by any other person of any chuprass or badge, intended to resemble any chuprass or badge worn by servants of the Government; and every person violating this rule shall be punishable by fine and imprisonment on conviction before a magistrate, as for a misdemeanor. Every chuprass or badge worn by any person not being a servant of the Government shall bear the name of the party by whom the wearer is employed, and whoever shall wear a chuprass or badge, or be accessory to the wearing such chuprass or badge, otherwise than in conformity to this rule, shall be punishable by fine and imprisonment on conviction before a magistrate, as for a misdemeanor —Act XVIII, 1835.

278. The darogahs of police shall prevent all encroachments on the public roads; and shall at the same time report the circumstances of each case for the information of the magistrate, and record an abstract of the same in his thannadary proceedings.—Reg. XX., 1817, sec xxx., cl. 5.

279. The police darogah shall secure and send to the sudder station of the district in which their thannahs may be situated, all insane persons found within the limits of their respective jurisdictions, from whose insanity there may be reason to apprehend any fatal or serious consequences, unless the friends of such persons will agree to enter into engagements to adopt such precautions as shall prevent their doing mischief. In such case, the police-officer to whom the engagements may be tendered shall refrain from securing the person of the insane individual, and await the instructions of the magistrate, to whom the circumstances of the case shall be reported without delay.—Reg. XX., 1817, sec. xxx, cl. 6.

### *Session Judges and Europeans.*

280. The officers of police are enjoined to show every mark of personal respect and attention to the session judges —Reg XX., 1817, sec xxxi, cl. 1

281. On the arrival of any European, not in his Majesty's or the Honourable Company's civil or military service who may propose to settle within the limits of any thannah jurisdiction, the darogah of the division shall report the circumstance for the information of the magistrate — Reg. XX., 1817, sec. xxxi., cl. 2.

### *Despatches of Treasure.*

282 The darogahs of police are enjoined to afford assistance, on application from the revenue officers, for the safe custody and conveyance of despatches of treasure, and to allow such despatches to be deposited, during the night, for better security, within the house allotted for the thannah.— Reg. XX., 1817, sec. xxxii., cl. 1.

283. The darogahs of police shall likewise, as far as their other duties will admit, afford protection to despatches of treasure belonging to bankers and merchants, on application from the person in charge of the same.—Reg. XX., 1817, sec. xxxii., cl. 2.

*Rules relating generally to Landholders, Managers of Estates, &c.*

284. The police darogahs shall take every favourable opportunity, when employed on local inquiries, as well as on other occasions, of explaining to the zemindars, talookdars, and other proprietors of land, malgoozaree or lakheraj, to the sudder farmers and under-renters of land, dependent talookdars, naibs, and other local agents, and to all native officers employed in the collection of the revenues and rents of land, on the part of Government or the Court of Wards, the duties incumbent upon them, and the responsibility attached to them under the provisions of Regulations VI. 1810, I. 1811, III. 1812, VIII. 1814 ("RESPONSIBILITIES OF LANDHOLDERS AND OTHERS"), and any other Regulations in force, to communicate to the magistrates and police darogahs, either publicly or secretly, all information which they may obtain respecting the commission of murder, robbery, housebreaking, arson or theft, within the limits of the estate or farm held or managed by them respectively; or respecting the resort of any known robbers, of whatever description, or the residence of any notorious receiver or vendor of stolen property, within such limits, as well as to afford their assistance in the apprehension of proclaimed offenders, and of all persons for whose apprehension warrants may have been issued by the local magistrate in pursuance of Section IX., Regulation III., 1812; and generally to co-operate with, assist, and support the police-officers of Government in maintaining the peace, preventing, as far as possible, affrays and other criminal acts of violence, or apprehending the offenders under the rules and restrictions which have been enacted and promulgated in the Regulations.—Reg. XX., 1817, sec. xxxiii., cl. 1.

285. To enable the police darogahs the more effectually and satisfactorily to perform the service thus required from them, the magistrates shall be careful to furnish them with copies of or extracts from all Regulations in force on the points above adverted to, or any other immediately connected with the aid to be given by landholders, farmers, under-tenants, and managers of land, in support of an efficient police.—Reg. XX., 1817, sec. xxxiii., cl. 2.

286. Copies of this Regulation shall be furnished to all zemindars, or other landholders or managers of estates intrusted with the management of the police; and such zemindars, or other landholders or managers, shall observe the rules therein prescribed for the conduct of the police darogahs, as far as the same may be applicable to their duties as chief police-officers.—Reg. XX., 1817, sec. xxxiii., cl. 3.

*Rules relating to Boats.*

287. The darogahs are to seize all boats built, used, or transferred, in opposition to the rules contained in the following paragraphs, and to apprehend and send to the magistrate the artificers employed in repairing or building such boats, and to report to him the name of the proprietor of the village in which they may have been built or repaired, that the penalties hereafter specified may be enforced against him.—Reg. XXII., 1793, sec. xx.

288. All persons are prohibited building or making use of boats of the following denominations and dimensions, or of boats of any other denominations, being of the same dimensions, without previously obtaining from the magistrate the written authority hereafter directed.

| | Covids length. | Covids breadth. |
|---|---|---|
| Luckhas ... ... ... | 40 to 90 ... ... ... | 2¼ to 4 |
| Jelkas ... ... ... | 30 to 70 ... ... ... | 3½ to 5 |

Paunsways of Chandpore carrying more than thirty oars.

—Reg. XXII., 1793, sec. xx., cl. 1.

289. The magistrates are directed to seize and confiscate all boats of the foregoing descriptions, which may be built, used, or transferred within the limits of their respective jurisdictions, without written authority from them for that purpose.—Reg. XXII., 1793, sec. xx., cl. 2.

290. Any zemindar or other landholder allowing any boat of either of the descriptions above specified to be built or repaired within the limits of his zemindarry, unless a writing shall be produced to him, under the seal and signature of the magistrate of the zillah, authorizing the building or using of such boats, shall forfeit to Government the village in which such boat shall be proved to have been so built or repaired.—Reg. XXII., 1793, sec. xx., cl. 3.

291. All carpenters, blacksmiths, or other artificers, are prohibited engaging for or being employed in the building or repairing of boats of the descriptions above mentioned (unless the person offering to employ them shall produce a writing, under the seal and signature of the magistrate, authorizing the building or using of such boat), under pain of being committed to close imprisonment for any period not longer than one month. The magistrates are empowered to cause artificers who may be proved to have offended against the prohibition contained in this

paragraph, to be punished in the manner and under the limitations directed, according to the circumstances of the case.—Reg. XXII., 1793, sec. xx., cl. 4.

292. The magistrates are empowered to authorize any person to build or use boats of the dimensions or descriptions above prohibited for the purposes of trade, or of conveying themselves from place to place by water, or for recreation; but such authority is to be given in writing, under his official seal and signature, and is constantly to remain with the person to whom the building of the boat may be committed whilst the boat is building, or on board of the boat in charge of some person after it is built, otherwise the boat shall be liable to seizure and confiscation notwithstanding such writing, in the same manner as if the boat had been built and used without such authority. The magistrates are to be careful not to grant licenses to build or use boats of the above denominations or dimensions, excepting to persons whom they may be satisfied will not allow them to be employed for any improper purposes. All persons desirous of building or using boats of the prohibited dimensions and descriptions, or to sell or transfer them, are to apply to the magistrate of the zillah for a written authority for that purpose. The magistrates shall cause this rule to be subjoined to all the written authorities which they grant for the building or using the boats in question; and the sanction for the sale or transfer of such boats shall be endorsed on the original authority for building or using them.—Reg. XXII., 1793, sec. xx., cl. 5.

293. The above rules are to extend to the darogahs of cities, and the magistrates and their police-officers are directed to conform thereto.—Reg. XXII., 1793, sec. xxxv.

### REWARDS.

294. In cases wherein any meritorious service may have been rendered by police-officers or others in the apprehension or discovery of public offenders, for whom no specific reward may be payable to the person or persons who have performed such meritorious service, the Sessions Courts, on due consideration of the service rendered, the exertions made, and any expense incurred in the performance of it, are authorized to direct the payment of such remuneration as may be considered adequate, not exceeding the sum of one hundred rupees for a sirdar and ten rupees for an accomplice. If a larger reward be deemed proper, or when it may appear advisable to offer a reward for the apprehension of a known offender, or the discovery of unknown offenders in cases of magnitude, application shall be made to such officer or officers as from time to time may be empowered by the local Governments to authorize the grant of rewards.—Reg. XVI., 1810, sec. xviii.; and Act XVI., 1843.

295. When a zillah or city magistrate shall be of opinion that it is expedient to grant any reward to a police-officer or other person for particularly meritorious conduct, or for any services rendered to the police, he will state the circumstances, with his sentiments, to the superintendent of police.—Reg. XVII., 1816, sec. xv.

296. All rewards for the apprehension of proclaimed offenders, which may be sanctioned by the Regulations, and promulgated under the seal or signature of a magistrate, joint magistrate, or of the superintendents of police, will, if the offender be seized by the officers of police or other persons, be payable on the delivery of the person proclaimed to the magistrate of the zillah or city in which the offender may have been seized.—Reg. XX., 1817, sec. xxvi., cl. 15.

### TOWN AND CHOKEEDARY POLICE.

297. Head police-officers appointed in the cities and towns shall be guided in their discharge of the general duties of the police by the rules prescribed for the guidance of the darogahs of police, as far as the same may be applicable, and in the special police duties of the cities and towns by the rules in force which relate to the police of the cities and towns.—Reg. XX., 1817, sec. xxxiv.

298. The magistrates of cities shall divide the cities and the places adjacent, which are subject to their respective jurisdictions, into wards. Each ward shall be guarded by a darogah with a proper establishment.—Reg. XXII., 1793, sec. xxvi.

299. The wards shall be numbered and named, and the magistrates shall not change the names or numbers of the wards, or alter their limits, without the sanction of the Governor-General in Council.—Reg. XXII., 1793, sec. xxvii.

300. The rules prescribed respecting the darogahs of the jurisdictions in the zillahs are to be held applicable to the darogahs of the wards in cities.—Reg. XXII., 1793, sec. xxviii.

301. The jemadars of the establishments of the several wards, with one-half of the establishments, shall patrol their respective wards, without intermission, from sunset until twelve o'clock at night. The darogahs, with the other half of their establishments, shall patrol their respective

wards, without intermission, from twelve o'clock at night until daylight. The patrols are to move about as silently and with as little noise as possible, that thieves and other disorderly persons may never be apprised of their approach. The patrols of the several wards are to be furnished with a singharah or horn, which they are to sound when they meet with robbers or other persons guilty of a breach of the peace, and have occasion to give the alarm to the other patrols or to the inhabitants of the ward, that they may co-operate to the apprehension of the offenders, but not otherwise.—Reg XXII, 1793, sec. xxix.

302. To assist the darogahs in obtaining the earliest intelligence of any robbers or other offenders that may be concealed or have taken up their residence within their respective wards, a mohullahdar and mohullahdarin shall be appointed to each ward; subject, however, to the orders of the darogahs, to whom they shall convey immediate information of any offenders that may be found in their respective wards.—Reg. XXII., 1793, sec. xxx.

303. It shall be the duty of the darogahs of the wards to apprehend all murderers, robbers, house-breakers, thieves, and persons charged with, or suspected of crimes or misdemeanors, and all vagrants who may be lurking about their respective wards without any ostensible means of subsistence, or who cannot give a satisfactory account of themselves.—Reg. XXII., 1793, sec. xxxi

304 The darogahs of the ward shall not discharge any persons whom they may have once apprehended without receiving orders from the magistrate for their release.—Reg XXII., 1793, sec xxxii.

305 The duty of the darogahs of the wards, with regard to persons charged with crimes or misdemeanors, is confined to apprehending them and causing them to be carried before the magistrate, as above prescribed. The darogahs are not to inquire into or pass sentence upon any complaint, or impose any fine, or make any exaction, or inflict any punishment on the complainants, or on the accused, or on any other persons whomsoever —Reg XXII., 1793, sec xxxiv.

306 The darogahs of the wards in cities, and the officers under their authority, shall be liable to prosecution in the Civil or Criminal Courts for acts of oppression, corruption, or extortion, or any acts not warranted by the Regulations, in the same manner as the darogahs of the zillahs and their officers —Reg XXII, 1793, sec. xxxviii.

307. The magistrates of cities are to furnish the darogahs of the wards in their respective jurisdictions with sunnuds of office and translates of this Regulation. The sunnuds and translates above mentioned are to be attested with the official seal and signature of the magistrates.—Reg. XXII., 1793, sec. xxxix.

308. All chokeedars who may have been heretofore appointed, or whom it may hereafter be judged necessary to appoint in aid of the police in the cities or at the stations at which the zillah magistrates ordinarily reside within the provinces immediately dependent on the presidency of Fort William, or at the several towns at which joint magistrates are stationed, shall be nominated, appointed, and maintained by the respective communities for whose benefit and protection such subsidiary police establishments may be required, and which communities are accordingly chargeable with the expense of maintaining such chokeedars, subject to the limitations and provisions following.—Reg. XXII, 1816, sec. iii.

309. All chokeedars of police who may have been appointed, or who may hereafter be appointed under the provisions of this Regulation, shall be paid in money only, and shall receive an allowance for their support, the amount of which shall be determined at the discretion of the magistrate, with reference to the usual wages of labour, not, however, exceeding four, or being less than two rupees per mensem.—Reg. XXII., 1816, sec. iv., Reg. VII., 1817, sec. ii, cl. 1.

310 It shall be the duty of the superintendents of police to bring under the notice of Government all instances in which it may appear expedient, on a consideration of the usual wages of labour, or of other special or local circumstances, that the chokeedars should receive a higher allowance than three rupees per mensem.—Reg VII., 1817, sec. ii, cl. 2.

311 The number of chokeedars to be appointed and maintained in the several cities or stations aforesaid shall likewise be determined at the discretion of the magistrate, or joint magistrate, with reference to the known or apparent condition of the inhabitants, not, however, exceeding in any instance the average number of two chokeedars to every fifty shops or occupied habitations.—Reg XXII., 1816, sec. v.

312. The aggregate sum to be collected monthly from the inhabitants of the several cities or stations aforesaid, to provide for the payment of their respective chokeedars, shall not exceed the average rate of two annas per mensem from the proprietor, or (in the absence of the proprietor) from the principal occupier of each shop or habitation —Reg. XXII, 1816, sec. vi.

313 The magistrates of the cities and zillah stations will continue to exercise a discretion in exempting the inhabitants of any mohullah from the maintenance of chokeedars, in which, either from the poverty or from the scanty population of the mohullah, it may not appear necessary to entertain such establishments.—Reg. XXII., 1816, sec. vii.

314. The several magistrates and joint magistrates will nominate and appoint five respectable inhabitants (being substantial householders) of each mohullah of the city, or other convenient division of the town, who shall constitute a punchayet, for the purpose of regulating and of annually revising and amending the rates of assessment to be levied from the inhabitants for the maintenance of their respective chokeedars, as well as for nominating and appointing such chokeedars, subject to the approval of the magistrate or joint magistrate; but the persons composing the punchayet shall not be required to realize such assessments, or to perform any duties which may not be expressly specified in this Regulation.—Reg. XXII., 1816, sec. ix.

315. The punchayet so constituted shall receive a sunnud of appointment, under the official seal and signature of the magistrate or joint magistrate, with a specification of the duties to be performed by them, according to the form and tenor prescribed in the following form :—

Whereas you (names of persons), inhabitants of (name of mohullah of city or town), are hereby constituted and appointed a punchayet, to regulate and fix the rates of assessment to be levied monthly from the several householders of the said (mohullah or town), for the payment of the chokeedars entertained for their protection, and to nominate and appoint such chokeedars, under the provisions following :—

Article 1st.—You are to regulate and determine the rates of assessment to be levied from the proprietor or principal occupier of each shop or habitation within the limits of the aforesaid (mohullah or town) for the payment of the wages of the chokeedars. You are to regulate the amount payable by each individual as equitably as may be practicable, with reference to the known or apparent condition and circumstances, and the value of property to be protected of each person assessed. Provided that no individual (whatever be his means or condition in life) be subjected to a higher rate of assessment than two rupees, nor to a lower rate than one anna per mensem. And provided, likewise, that the aggregate amount assessed shall not exceed the average of two annas per mensem upon each shop or occupied habitation, or the total sum of six rupees and four annas for every fifty shops or occupied habitations.

Article 2nd.—In the event of any proprietor or principal occupier of any shop or habitation in the said mohullah being in circumstances so indigent as to be manifestly unable to pay the monthly contribution of one anna, such person shall altogether be exempt from assessment.

Article 3rd.—The total amount assessed by you, in the entire mohullah, shall be sufficient to provide for the maintenance of (number) chokeedars at the monthly wages of (amount).

Article 4th.—When you shall have regulated the assessment on the principles above specified, you are to deliver to the magistrate a list, at the foot of which you shall affix your signature, specifying the names, occupation, and amount of assessment payable by each shopkeeper or householder assessed, according to the subjoined form.

Article 5th.—You are hereafter to nominate and appoint the police chokeedars, who may be entertained under this Regulation for the protection of the inhabitants of the aforesaid mohullah. You are to report to the magistrate the names and number of such chokeedars who are appointed; and you are also to report to the magistrate or police darogah of the mohullah any neglect or misconduct of such chokeedars in the discharge of their duties, or any vacancies that may arise from their absence or other cause.

Article 6th.—You are annually, or at any period during the year, when you may be required by the magistrate, to revise and amend the rates of assessment, on the principles above stated.

FORM OF RETURN TO BE MADE BY THE PUNCHAYET.

NAME OF MOHULLAH.

| Names of Persons assessed. | Caste or Profession. | Amount of Monthly Quota. |
|---|---|---|
| Gocul Doss ... ... .. | Merchant ... ... ... | 8 Annas. |
| Name ... ... ... ... | Bunneea ... ... .. | 4 Ditto. |
| Ditto .. ... ... ... | Sonar ... ... ... ... | 2 Ditto. |
| Ditto .. ... ... ... | Tailee ... ... ... ... | 1 Ditto. |

—Reg. XXII., 1816, sec. x.; and Act XV., 1837, sec. ii.

316. On receipt of the list of persons assessed, which may be furnished by the punchayet as required by the sunnud, the magistrate or joint magistrate will revise, amend, and finally adjust, the rates of assessment under the limitations prescribed, in such manner as may appear just and proper, on consideration of any complaints of inequality of assessment, or representations of

inability to pay the amount assessed, which may be preferred under the paragraph following; provided always, that the total amount assessed shall suffice to maintain the number of chokeedars the magistrate or joint magistrate may deem requisite for the protection of the inhabitants, under the limitation specified.—Reg. XXII., 1816, sec. xi.

317. Any individual who may consider himself aggrieved by the assessment which may be fixed by the punchayet, or who shall be altogether unable to pay the lowest rate of monthly contribution, shall be at liberty to appeal to the magistrate or joint magistrate by a petition, setting forth the grounds of dissatisfaction or alleged grievance; and on the party making oath or an affirmation to the truth of the circumstances therein stated, the magistrate or joint magistrate, after such inquiry as he may deem necessary, will either amend the rate of assessment or grant such other relief as may appear just and proper, and his decision on all such petitions shall be final.—Reg. XXII., 1816, sec. xii., cl. 1.

318. When the rates of assessment shall have been finally adjusted in the manner directed, a fair copy thereof, with a notification prefixed according to the form and tenor prescribed, and written in the language and character most commonly understood, shall be affixed for general information in some conspicuous and frequented place in the mohullah or division of the town to which the assessments may apply; a second copy shall be affixed in the same manner at the police thannah, and a third shall be deposited in the office of the magistrate or joint magistrate.—Reg. XXII., 1816, sec. xiii.

319. A revised and corrected list of names, with amended rates of assessment, regulated on the principle prescribed in the sunnud of the punchayet, with a notification prefixed according to the form prescribed, shall be annually prepared, and published for general information in the manner above directed.—Reg. XXII., 1816, sec. xiv., cl. 1.

320. The magistrates and joint magistrates alluded to in paragraph 308 are competent to cause the assessments to be revised and amended by the punchayet at any period during the year whenever that measure may be necessary, in order to supply any deficiency that may eventually arise in the amount of the funds for the payment of the stipends of the chokeedars; but on all such occasions they will address a written order to the punchayet, attested by their official seal and signature, specifying the amount of the deficiency required to be supplied by an amended assessment, and requiring a return to be made of such amended rates, according to the form subjoined to the sunnud in paragraph 315, within a stated and reasonable period.—Reg. XXII., 1816, sec. xiv., cl. 2.

321. For the purpose of realizing the amount of the assessments for keeping with regularity and accuracy the records appertaining to the subsidiary police establishments, and for the payment of the monthly wages of the police chokeedars entertained under this Regulation, an intelligent and respectable native, duly qualified, shall be selected and appointed by the magistrate or joint magistrate, who shall be denominated the sudder chokeedaree bukshee, and who shall receive such fixed monthly salary and allowance for the provision of stationery and materials for keeping the prescribed records as may be determined by the Governor-General in Council, such salary and allowance to be defrayed from the amount of the assessment levied in the several towns and cities for the maintenance of those establishments. In making this selection, it shall be the duty of the magistrate or joint magistrate to consult as far as practicable the wishes of the most respectable inhabitants of the town.—Reg. XXII., 1816, sec. xv.; Reg. II., 1832, sec. iv.

322. The bukshees who may be appointed under the preceding rule shall be exclusively employed in the duties prescribed by this Regulation, to the faithful discharge of which they shall subscribe a solemn affirmation; and the magistrates and joint magistrates are strictly enjoined not to allow any police darogah, or other public officer subject to their authority, or any other individual whatsoever, to interfere in any manner with the bukshee in the discharge of the duties specified following.—Reg. XXII., 1816, sec. xvi., cl. 1; Reg. XVIII., 1817, sec. ii.

323. On the 1st of each Bengal or Fussily month, the bukshee shall proceed to collect in person, if practicable, or otherwise with the aid of the chokeedars, the quotas payable by each assessed individual within the limits of the city or town, being the station of the magistrate or joint magistrate.—Reg. XXII., 1816, sec. xvi., cl. 3.

324. For all sums so paid, the bukshee shall sign any receipt or acknowledgment which may be correctly prepared and presented to him for that purpose at the time of payment by individuals assessed, who may be able to write; or should the person assessed be unable to write, the bukshee shall grant a receipt.—Reg. XXII., 1816, sec. xvi., cl. 4.

325. The whole of the chokeedaree stipends which may be realized by the bukshee shall be immediately deposited by him in the treasury of the magistrate, and for which the receipt of the treasurer shall be taken by the bukshee.—Reg. XXII., 1816, sec. xvi., cl. 6.

326. On the last day of each Bengal or Fussily month, the bukshee and police darogah jointly shall cause the attendance of the police chokeedars at the cutcherry of the magistrate or joint magistrate, where they shall be paid their monthly wages, in presence either of the magistrate

or of his assistant, or of the joint magistrate; the receipt of each chokeedar being taken for the same in such form as may be convenient.—Reg. XXII., 1816, sec. xvi., cl. 7.

327. The bukshee will likewise prepare any summons or process to be issued against defaulters: he shall keep a regular and correct account of all sales which may be made by him under the authority of the magistrate or joint magistrate for the realization of arrears, according to such form as shall be prescribed by the magistrate or joint magistrate; and he shall perform any other duties which the magistrate or joint magistrate may direct, connected with the general management of this branch of the police establishments.—Reg. XXII., 1816, sec. xvi., cl. 8.

328. On receipt of lists of defaulters, the magistrate or joint magistrate will issue a summons against defaulters, requiring the immediate appearance of the persons therein named at his cutcherry, and will, either himself or by means of his assistant, examine into the merits of the case, and should the party allege that payment has been made, the magistrate or his assistant, or the joint magistrate, shall require the production of the voucher, or will make such further inquiry as he may deem proper; and in the event of it appearing, from such investigation, that any arrear is due, the magistrate or joint magistrate will issue a written order to the bukshee to levy the same by process of distress and sale of such part of the personal property of the defaulter as may suffice to make good the amount; and all orders so passed by a magistrate or joint magistrate shall be final.—Reg. XXII., 1816, sec. xvii.

329. It shall be the duty of the police darogah to render the bukshee any aid he may require in the execution of the above duty; but all sales which may become necessary under the preceding paragraph shall be made in the most public manner practicable, and shall be previously notified by beat of drum in the mohullah; and any overplus which may arise after payment of the arrear due shall be restored to the party; or should the arrear be discharged at any time previously to such sale, the distress shall be immediately withdrawn and the property restored to the owner.—Reg. XXII., 1816, sec. xviii.

330. Any complaints which may be preferred on oath, or on solemn affirmation, against a bukshee, appointed under this Regulation, for undue exaction, malversation or other misconduct in the discharge of the duties prescribed by this Regulation, shall be cognizable by the magistrate or joint magistrate only; and on proof of any such offence, to the satisfaction of the magistrate or joint magistrate, the bukshee shall be liable to dismissal from his office, and to imprisonment in the criminal jail for a period not exceeding six months; and shall likewise be required to refund to the party aggrieved any money corruptly or unduly exacted or received, or to restore any effects, or the value thereof, which may have been illegally sold or distrained, or in default thereof, he shall be further imprisoned until the amount be paid, provided that the total period of imprisonment shall not, in any case, exceed one year; or should the act with which a bukshee may be charged be of a nature to render it proper that he be committed to take his trial before the Sessions Court, the magistrate or joint magistrate will of course proceed against him in conformity with the provisions of the general Regulations.—Reg. XXII., 1816, sec. xix.

331. Whenever any charge which may be preferred against a bukshee, for any unauthorized act alleged to have been done by him in the discharge of his duties, shall, upon investigation, prove manifestly unfounded, exaggerated, or vexatious, the party preferring the same shall be sentenced to punishment by fine or imprisonment, not exceeding the limitation specified in Section X., Regulation IX., 1793, and Section V., Regulation VII., 1811 ("MAGISTRATES," paragraphs 49 and 52).—Reg. XXII., 1816, sec. xx.

232. In the event of any individual, who may be appointed, by a magistrate or joint magistrate, a member of punchayet, declining, without reasonable or sufficient grounds, to undertake the office, as prescribed by this Regulation, he shall either find a substitute, to be approved by the magistrate or joint magistrate, or shall be subject to the payment of a penalty not exceeding fifty rupees, to be regulated at the discretion of the magistrate or joint magistrate with reference to the circumstances of the individuals, and which shall be levied by the usual process of distress and sale of property. Or in the event of the persons who may be nominated and appointed by the magistrate or joint magistrate to constitute the punchayet in any instance failing or objecting to perform the duties required of them, the magistrate or joint magistrate will proceed to regulate the assessments, and to appoint the requisite number of chokeedars, by means of the bukshee and the darogah of police; but this discretion shall not be exercised, except in cases of indispensable necessity, to provide for the objects in view; and any such interposition of the authority of the magistrate or joint magistrate shall be withdrawn, whenever the inhabitants of the mohullah, or other division of a town, shall petition to be allowed to form the assessments and to appoint chokeedars in the manner otherwise provided for by this Regulation.—Reg. XXII., 1816, sec. xxi.

333. It shall be the duty of the chokeedars who may be appointed under this Regulation, constantly to watch over and protect the safety of the persons and the property of the inhabitants of their respective mohullahs, or divisions to which they may belong; to apprehend and imme-

diately to convey to the cotwal or darogah of police to whose authority they may be subject, any person or persons who may be taken in the act of committing murder, robbery, house-breaking, or theft, or in the actual commission of any breach of the peace, or against whom a hue and cry shall have been raised. It shall also be their special duty to convey to the cotwal or darogah immediate intelligence of the resort of any receivers of stolen goods, or of any robbers or other persons of notorious or suspected bad livelihood, within the limits of their respective divisions; but they shall not interfere in cases of petty assault, abuse, adultery, or abortion; nor shall any person be arrested by a police chokeedar, except in cases herein specified, unless under the special warrant of the magistrate, or of the cotwal or darogah of police to whose authority they may be subject.—Reg. XXII., 1816, sec. xxii.

334.—Chokeedars who may be appointed under this Regulation shall not be removed without the sanction of the magistrate or joint magistrate; and any chokeedar who may be proved guilty of neglect or misconduct in the discharge of his duties, or who may be convicted of connivance at the commission of any robbery or other heinous offence, shall be dismissed by the magistrate or joint magistrate from his situation, and shall be further punishable as the law directs.—Reg. XXII., 1816, sec. xxiii.

335. It shall be lawful for the several magistrates and joint magistrates within the presidency of Fort William in Bengal to appropriate a portion of the tax levied under Regulation XXII., 1816, of the Bengal code, to the purpose of cleansing and repairing the towns in which that tax is levied.—Act XV., 1837, sec. i.

336. No person whatever shall, either by reason of place of birth, or by reason of descent, be exempted from the payment of any assessment under Regulation XXII. of 1816, of the Bengal code, or under this Act.—Reg. XV., 1837, sec. iii.

337. The magistrates and joint magistrates are empowered and required, notwithstanding any thing to the contrary contained in Section XIX., Regulation XXVIII., 1814, to receive on unstamped paper all petitions which may be preferred to them by persons considering themselves aggrieved by the assessment which may have been fixed by the punchayet appointed under the provisions of paragraph 314.—Reg. III., 1821, sec. vi., cl. 2.

338. When petitions of the above nature shall be presented to a magistrate, or joint magistrate, he shall proceed upon them as directed in paragraph 317. It shall, however, be competent to the session judges holding the jail delivery, on the receipt of information leading them to be of opinion that the rate of assessment is too high, or otherwise essentially wrong or defective in any respect, to report their sentiments on the subject to Government, in order that, after making such further inquiries as may be necessary, suitable measures may be adopted for the revision or correction of the assessment.—Reg. III., 1821, sec. vi., cl. 3.

### HEALTH OF TOWNS.

339. If it shall appear to the Governor, or Governor in Council, or Lieutenant-Governor of any presidency or place within the territories under the Government of the East-India Company, that the inhabitants of any town or suburb, not within the town of Calcutta, Madras, or Bombay, are desirous of making better provision for making, repairing, cleaning, lighting, or watching any public streets, roads, drains, or tanks, or for the prevention of nuisances, or for improving the said town or suburb in any other manner, the said Governor, or Governor in Council, or Lieutenant-Governor, may order this Act to be put in force within such town or suburb.—Act XXVI., 1850, sec. ii.

340. Whenever any application shall be made to the Government for putting this Act in force in any town or suburb, notice thereof shall be given in the Government Gazette of the presidency or place, and also by proclamation within such town or suburb, setting forth the purposes of the application, and giving reasonable time for all inhabitants of such town or suburb, who are minded to declare themselves for or against the adoption of this Act therein, for such purposes, or any of them.—Act XXVI., 1850, sec. iii.

341. The Governor, or Governor in Council, or Lieutenant-Governor, shall take all such declarations into due consideration, and after the time allowed for receiving the same, shall make a final order, which shall be published in the Government Gazette, and also notified by proclamation within such town or suburb, to the effect that the application appears, or does not appear, to be according to the wishes of the inhabitants, either wholly, or in respect to one or more of the purposes in respect of which it is made; and if the whole or any part of it shall appear to be according to the wishes of the inhabitants, then this Act shall be thenceforth in force in such town or suburb, for such purposes only as shall be mentioned in the order.—Act XXVI., 1850, sec. iv.

342. Whenever any such order shall be made and published as aforesaid, this Act shall come into force within the said town or suburb for such purposes as are mentioned in the order, and the

making and publication of the said order shall be conclusive evidence that the provisions of this Act have been complied with, and that it is thenceforth in force within the said town or suburb for such purposes as are mentioned in the order.—Act XXVI., 1850, sec. v.

343. Whenever this Act shall come into force in any town or suburb, the Governor, or Governor in Council, or Lieutenant-Governor, shall appoint the magistrate and such number of the inhabitants thereof as to him shall appear necessary, to be commissioners for putting the Act in force, and shall give authority to them to prepare rules for more effectually accomplishing the purposes for which they are appointed; which rules, when approved by the Governor, or Governor in Council, or Lieutenant-Governor, shall be of the same force within the said town or suburb, until altered or rescinded as hereinafter provided, as if they were inserted in this Act. And the said Governor, or Governor in Council, or Lieutenant-Governor, may remove any of the commissioners and appoint others, and may fill up vacancies occurring among the commissioners in such manner as may seem to him fit.—Act XXVI., 1850, sec. vi.

344. The rules to be prepared by the said commissioners shall provide, among other things, for those following, that is to say:—

1st. The appointment and management of all necessary officers and servants of the commissioners, and the salaries to be allowed to them.

2nd. The definition of the persons of property within the town or suburb to be taxed for raising the moneys necessary for the purpose of this Act, whether by house assessment or town duties, or otherwise, the amount or rate of the taxes to be imposed, the manner of raising and collecting them, and insuring the safety and due application of them when collected.

3rd. The manner in which from time to time the rules in force are to be amended or rescinded, and new rules are to be made, with the approval, in every case, of the Governor, or Governor in Council, or Lieutenant-Governor.

4th. The definition and prohibition of nuisances within the town or suburb.

5th. The imposition of reasonable penalties for breach of any rule made by the commissioners, not exceeding fifty rupees, or in the case of continuing nuisance, not exceeding five rupees for every day that such nuisance is continued.—Act XXVI., 1850, sec. vii.

345. The commissioners appointed from time to time shall have full power to make all necessary contracts for the purposes of this Act, and apply the taxes raised as aforesaid in the necessary works, and in payment of their officers and servants, and in the other expenses incident to the execution of this Act within the said town or suburb.—Act XXVI., 1850, sec. viii.

346. No commissioner shall be personally liable for any contract made by the commissioners on behalf of the inhabitants of such town or suburb; but every commissioner shall be liable for any misapplication of the moneys collected, to which he shall have been knowingly party or privy, or which shall have happened through gross neglect of his duty, and shall be liable to be sued for the same as for money due to, and at the suit of the East-India Company.—Act XXVI., 1850, sec. ix.

347. The powers of Act II., 1839 ("MAGISTRATES," paragraphs 54 to 57), for the recovery of fines, shall be applied for the recovery of all arrears of taxes and penalties under this Act; and every magistrate shall put in force the powers of the said Act, for that purpose, whenever thereunto required by the commissioners, or any of their officers deputed by them for the purposes of enforcing payment of arrears of taxes imposed under this Act.—Act XXVI., 1850, sec. x.

348. No rate on property made under this Act shall be invalid for defect of form; and it shall be enough in any such rate on property, or any assessment of value for the purpose of making such rate, if the property rated or assessed shall be so described as to be generally known, and it shall not be necessary to name the owner or occupier thereof.—Act XXVI., 1850, sec. xi.

349. All moveable property found in any house or building, or upon any land assessed under this Act, may be seized and sold by warrant of a magistrate for payment of any arrear of tax laid on such house, building, or land, under this Act.—Act XXVI., 1850, sec. xii.

350. All commissioners acting in execution of this Act shall, on or before the last day of April in every year, make up and send to the Governor, or Governor in Council, or Lieutenant-Governor, an account of all works executed by them, and of all sums received and spent by them in the foregoing year, in such form and with such vouchers as the Governor, or Governor in Council, or Lieutenant-Governor, shall from time to time order.—Act XXVI., 1850, sec. xiii.

351. The Governor, or Governor in Council, or Lieutenant-Governor, may, at any time, suspend the operation of this Act in any town or suburb, and appoint any person or persons to examine and report upon the behaviour of the commissioners, or any of them, or their officers, in the execution of this Act.—Act XXVI., 1850, sec. xiv.

REMOVAL OF NUISANCES.

352. It shall be lawful for any magistrate, when the public benefit and comfort are in question, to cause unlawful obstructions and nuisances to be removed from thoroughfares and public places, and to suppress, or cause to be removed to a different place, trades or occupations injurious to the health or comfort of the community, and to prevent such construction of buildings and such disposal of combustible substances as may appear to him likely to occasion conflagration, and to cause the removal of buildings in such state of weakness as, by the probability of their falling, may appear to him to expose individuals to danger.—Act XXI., 1841, sec. i.

353. In exercising the authority conferred by the above paragraph, the magistrate shall, after holding such inquiry as may satisfy him of the necessity of proceeding under this Act, issue an injunction, which, if practicable, shall be served personally on the parties concerned; but if such service shall be impracticable or very inconvenient, the injunction shall be notified by oral proclamation, and a written notice thereof shall be set up at such place or places as may be best adapted for conveying information to the parties concerned. And in case such injunction be not obeyed, the magistrate may compel observance thereof by force, and punish disobedience by fine, not exceeding two hundred rupees, or by imprisonment without labour for any period not exceeding one month; and if the magistrate finds it necessary to incur expense in removing noxious or dangerous articles or buildings, it shall be lawful for him to sell the same or their materials by public auction, in order to defray the charge, delivering any surplus that may remain to the owner. And it shall be lawful for the magistrate to compel, under the like penalty, the owners of tanks or wells adjacent to any public thoroughfare to fence the same in such manner as to prevent danger to the public arising therefrom.—Act XXI., 1841, sec. ii.

354. It shall be lawful for any person affected by such injunction or written notice as is above described, if he shall object thereto, to claim, by written petition to be presented to the magistrate within the period of ten days if reasonably practicable, if not, within the shortest reasonable further time from the receipt of such injunction or the publication of such notice, that a jury or punchayet may be appointed to try and decide the question; and the magistrate shall, on receiving such petition, pass order thereupon for the appointment of a jury or punchayet, which shall consist of not less than five persons, whereof the president and one-half of the other members shall be nominated by the magistrate from the residents in the vicinity, and the remaining members shall be nominated by the party petitioning. And the magistrate shall suspend the further execution of the injunction or order pending such inquiry, and be guided by the decision of the said jury, which shall be according to the opinion of the majority. Provided, however, that if the petitioner shall by neglect or in any other way prevent the appointment of such jury or punchayet, or if, from any cause, the jury so appointed shall not decide and report within a reasonable time, to be fixed in the order for their appointment, their functions shall cease from the date of the expiration of such period, unless they be continued by special order of the magistrate; and if from any of the above causes no decision be made by a jury or punchayet, the magistrate's order shall take effect as if not opposed.—Act XXI., 1841, sec. iii.

355. All the proceedings of magistrates under the authority of this Act shall be subject to the like appeal as other orders of magistrates, according to the Regulations of the respective presidencies.—Act XXI., 1841, sec. iv.

356. This Act shall not be applicable within the local limits of her Majesty's Courts of Justice.—Act XXI., 1841, sec. v.

ASSISTANCE TO TROOPS ON MARCH, AND TO TRAVELLERS.

357. Whenever a detachment of troops, or a single corps, shall be ordered to proceed, by land or by water, through any part of the Company's territories, the commanding officer of such detachment or corps is required to give the earliest practicable notice to the collectors of the revenue of the zillahs through which the troops are to pass, of the probable time of their arrival within such districts respectively; together with information of the probable period of their arrival at the particular places where supplies may be required, and a specification of the supplies which will be wanted. The commanding officer will likewise notify to the collectors the probable period of the arrival of the troops at the rivers or nullahs intersecting their march, where boats or temporary bridges may be necessary for crossing the troops and the baggage attached to them. The commanding officer will at the same time communicate to the magistrates of the zillahs through which the troops are to pass, the probable time of the arrival of the troops within their respective jurisdictions.—Reg. XI., 1806, sec. ii.

## POLICE.—ASSISTANCE TO TROOPS ON MARCH, AND TO TRAVELLERS.

358. On receiving the notification mentioned in the foregoing paragraph, the collector shall immediately issue the necessary orders to the landholders, farmers, tehseeldars, or other persons in charge of the lands through which the troops are to pass, for providing the supplies required, and for making any requisite preparations of boats or temporary bridges, or otherwise, for enabling the troops to cross such rivers or nullahs as may intersect their march without any impediment or delay. The collector shall at the same time depute a creditable native officer to accompany the troops through his jurisdiction, for the purpose of aiding in procuring the necessary supplies and of facilitating the march of the troops. It shall also be the duty of such native officer to provide the troops with whatever bearers, boatmen, carts, and bullocks, may be indispensably necessary to enable the troops to prosecute their route. Should he experience any difficulty in the performance of this duty, he is at liberty to apply for assistance to the nearest police-officer, who is directed to afford his aid in providing the number of carts and bullocks required.—Reg. XI., 1806, sec. iii., cl. 1.

359. The supplies furnished (including earthen pots, firewood, and every article of supply) shall be paid for by the persons receiving the same, at the current bazaar prices of the place at which they may be provided; and all officers commanding detachments of troops or single corps marching through any part of the Company's territories, are enjoined to make immediate inquiry into any complaints which may be preferred to them by the persons furnishing such supplies, or in their behalf, against any person or persons under their command, and to afford such redress to the complainants as the nature of the case may appear to require.—Reg. XI., 1806, sec. iii., cl. 2.

360. The practice of pressing or compelling individuals, whether under the denomination of coolies, begarees, or any other denomination, to carry burthens, either for the public service or for the convenience of private individuals, is positively prohibited; and the several magistrates and joint magistrates are required to adopt all legal means in their power to put an entire stop to the practice in question, by inquiring fully into all complaints which may be brought before them, and by subjecting persons regularly convicted of the offence, to such penalties as on a consideration of the circumstances of the case may appear to be proper, and consistent with the powers vested in the magistrates by the general Regulations.—Reg. III., 1820, sec. iii.

361. Whenever a detachment of troops or a single corps shall be provided with boats, temporary bridges, or other accommodations, by any landholder, farmer, tehseeldar, or other person, conformably to the orders of the collector of the zillah, for the purpose of crossing the troops and their baggage over rivers or nullahs, the commanding officer of such detachment or corps will grant a certificate to the person furnishing the same, specifying the number of boats and persons employed, the burthen of each boat, and how long employed on the public service. In instances in which temporary bridges may be constructed for the above purpose, the certificate to be granted by the commanding officer is to specify generally the dimensions of the bridges and the materials of which they may be composed.—Reg. XI., 1806, sec. iv., cl. 1.

362. The certificate mentioned in the foregoing paragraph shall be immediately transmitted to the collector of the zillah by the person receiving it, accompanied by a detailed account of the expense incurred for the purposes therein specified. The collector shall without delay communicate the particulars of the account to the officer commanding the detachment or corps on whose account the expense may have been incurred, who shall certify generally thereon, whether the services charged for in it were performed, or shall state such exceptions as he may have to offer to any of the charges.—Reg. XI., 1806, sec. iv., cl. 2.

363. When the account above mentioned shall be returned to the collector, he shall certify whether the sums and rates charged in it are in his opinion reasonable, and conformable to the usual rates of labour and hire in the zillah; and shall transmit the account, with the vouchers and certificates relating to it, with any requisite observations thereupon, through the prescribed channel, to the Governor-General in Council. After the account shall have undergone the examination and report prescribed for all military contingent charges, the Governor-General in Council will pass such final order as may appear proper. In the mean time, the collector is empowered in such cases to pay the amount of the charge, or such proportion of it as he may consider reasonable, to the landholder, farmer, or other person entitled thereto, inserting the amount so disbursed by him at the foot of his treasury account, in explanation of his treasury balance, in the mode prescribed for similar cases.—Reg. XI., 1806, sec. iv., cl. 3.

364. Whenever a proprietor, farmer, tenant, or manager of land through which any detachment or corps of the Company's troops may march, or on which they may be encamped, shall consider himself entitled to compensation for any injury sustained from the march or encampment of the troops, he shall immediately furnish the commanding officer of such troops with as accurate a statement as can be prepared of the nature and extent of the injury sustained, when the commanding officer is required to certify generally thereon, whether or not the damage represented to have been sustained has been actually committed, together with his opinion respecting the justice and extent of the claim.—Reg. XI., 1806, sec. v., cl. 1.

365. If the proprietor, farmer, tenant, or manager, after receiving such certificate, shall consider himself entitled to compensation, he will be at liberty to present the statement of his claim, with the commanding officer's certificate thereon, to the collector of the zillah (either in person or by his vakeel) within ten days from the date of the certificate; but no claim of this description shall be received by the collector after the expiration of that period, unless the person preferring it shall assign good and satisfactory reason for the delay. The collector, on receiving a statement of damage and the commanding officer's certificate thereon within the prescribed period, or afterwards, if sufficient reason be assigned for the delay, shall forthwith adopt such measures as may appear requisite to ascertain whether or not the claim be well founded; and shall report his proceedings to the Board of Revenue, accompanied by his opinion on the merits of the claim, for the consideration and orders of Government. It is however declared, that no claim will be received unless accompanied by the prescribed certificate of the commanding officer of the troops by whom the damage may be stated to have been committed, excepting in instances in which the claimant can show good and sufficient cause for not having obtained such certificate. In such cases, if the collector shall be satisfied with the cause assigned by the claimant for not having obtained the prescribed certificate, he shall transmit the petition and statement of the claimant to the officer commanding the troops by whom the damage may be stated to have been committed, and shall wait his reply thereto, previously to determining whether or not the claim be entitled to investigation.—Reg. XI., 1806, sec. v., cl. 2.

366. Immediately on receiving the notification mentioned in paragraph 357, the magistrate shall transmit orders to the several police darogahs, or other local officers of the police through whose jurisdiction the troops are to pass, to afford every assistance in their power to facilitate the march of the troops through their respective jurisdictions; and to co-operate, as far as necessary, with the person deputed on the part of the collector in procuring the requisite supplies, as well as in adjusting any disputes which may arise respecting the prices of the articles furnished, and in preventing any alarm to the inhabitants of the country.—Reg. XI., 1806, sec. vi.

367. Officers commanding detachments of troops or single corps on their march through any part of the Company's territories, are already required, by the general orders issued under date the 1st of February, 1788, to report to the Commander-in-Chief in what manner the troops have been supplied in passing through the districts lying in their route. In like manner, the collectors are directed to report to the Board of Revenue, and the magistrates to report to the Nizamut Adawlut, for the information of the Governor-General in Council, any complaints which may be made to them of the misbehaviour of the troops, when such complaints shall appear to be well founded and of sufficient importance to require communication to Government.—Reg. XI., 1806, sec. vii.

368. Whenever any military officer, not commanding nor proceeding with a corps or detachment of troops, or any other person (whether European or native), not restricted by Government from passing through the country, may be proceeding within any part of the Company's provinces, either on the public service or on his private affairs, and shall be in need of assistance during his route, to enable him to prosecute his journey, he shall be at liberty to apply to the nearest local officer of police, to aid him in providing any requisite bearers, boatmen, carts, or bullocks, or any necessary supplies of provisions or other articles. On receiving an application of the above nature, the police officer to whom it may be made shall furnish the aid required, or cause it to be furnished by the proper person or persons; provided that a sufficient number of persons who have been accustomed to act as bearers or boatmen, or the requisite number of carts and bullocks, not exclusively appropriated to the purposes of agriculture and occasionally let for hire, can be procured within his jurisdiction. But all police officers are strictly forbidden, under pain of dismission from office (under the rules prescribed by Regulation V., 1804), on applications of the above nature, to compel any persons not accustomed to act as bearers or boatmen, to serve on such occasions, or to furnish a traveller, or cause him to be furnished, with bullocks or carts kept for private use and not for hire, or exclusively appropriated to the purposes of agriculture. Persons so employed, and the persons in charge of carts and bullocks so provided, shall be at liberty to return from the first police station in the next zillah through which the corps or detachment is to march, unless a voluntary engagement to the contrary may be entered into by such persons. The police officers are further enjoined to be careful that a proper compensation for the bearers, boatmen, carts, or bullocks employed, and a just price for the provisions or other articles provided, be secured to the persons entitled thereto. For this purpose, the police officers are authorized to adjust the rate of hire to be paid for the bearers, boatmen, carts, or bullocks required, and the price of any articles provided; as well as to demand that the whole, or a part, according to the circumstances of the case, be paid in advance. Should any traveller refuse to comply with the adjustment or demand so made by a police-officer, he will not be entitled to any assistance from the officers of Government under this Regulation.—Reg. XI., 1806, sec. viii.

369. Any landholder, farmer, tehsildar, or other person in the possession or management of land, who may have been duly required by a collector of the land revenue (or any public officer

acting in that capacity) to provide supplies for a body of troops, about to proceed by land or water through any part of the British territories, or to make preparations of boats, temporary bridges, or otherwise, for enabling the troops to cross rivers or nullahs intersecting their march; and after the receipt of such requisition shall wilfully disobey or neglect the same, or shall without sufficient cause fail to exert himself for the due execution of the duty so assigned to him, shall, on proof of such failure, neglect, or disobedience, to the satisfaction of the collector (or other officer acting in that capacity) by whom the order may have been issued, or of his successor in the same office, be liable to a fine proportionate to the defaulter's condition in life and the circumstances of the case, in such amount as the collector or other officer, with due regard to these considerations, may judge it proper to impose, so that the fine shall not in any case exceed the sum of one thousand rupees.—Reg. VI., 1825, sec. ii.

370. The collector, or other officer acting in that capacity, who may exercise the powers vested in him by this Regulation, shall previously make a summary inquiry, in the presence of the party charged with disobeying or neglecting the order issued to him or of his representative, if, on being duly summoned, he shall attend in person, or by vakeel, for that purpose; if he shall fail to attend, either in person or by vakeel, the summary inquiry shall be conducted ex parte, and the collector shall record upon his proceedings the whole of the evidence obtained in proof of the neglect or disobedience for which a fine may be imposed.—Reg. VI., 1825, sec. iii.

371. The collector or other officer, who may adjudge a fine under this Regulation, shall be competent to levy the amount by the same process as is authorized for the recovery of arrears of the public revenue. Provided that, if an appeal be preferred from his decision, within six weeks from the date of it, to the Board of Revenue, in whose jurisdiction the district may be situate, and sufficient security be tendered for performing the judgment of the Board upon the appeal, the collector shall stay the execution of his order for levying the fine imposed by him, until he shall receive the final order of the Board.—Reg. VI., 1825, sec. iv.

372. Appeals from the orders of collectors or other public officers, adjudging fines under this Regulation, may be preferred on the stamped paper prescribed for other appeals to the Revenue Boards, either immediately to the proper Board, or through the officer by whom the fine may have been adjudged; and, on admission of the appeal, the whole of the proceedings in the case shall be transmitted to the Board. But no such appeal shall be receivable after the expiration of six weeks from the date of the judgment, without proof of sufficient reason for the delay, to the satisfaction of the Board by whom the case may be cognizable.—Reg. VI., 1825, sec. v.

### RESPONSIBILITIES AND DUTIES OF LANDHOLDERS AND OTHERS.

373. Landholders and farmers of land are not, in future, to be considered responsible for robberies committed in their respective estates or farms, unless it shall be proved that they connived at the robbery, received any part of the property stolen or plundered, harboured the offenders, aided or refused to give effectual assistance to prevent their escape, or omitted to afford every assistance in their power to the officers of Government for their apprehension; in either of which cases they will be subject to be prosecuted personally for the crime or offence before the Court of Sessions, and if convicted, their lands and effects will be liable to be sold, at the discretion of the Governor-General in Council, to make good the value of the property stolen or plundered to the owner.—Reg. XXII., 1793, sec. iii.

374. All zemindars, talookdars, and other proprietors of lands, whether malguzary or lakheraj, all sudder farmers and under-renters of land of every description, all dependent talookdars, all naibs, and other local agents, all native officers employed in the collection of the revenues and rents of lands on the part of Government or of the Court of Wards, are declared especially accountable for the early and punctual communication to the magistrates and police darogahs, either publicly or secretly, as the informants may judge proper, of all intelligence which they may obtain respecting the resort to any place within the limits of the estate or farm held or managed by them, of any person or persons of the different classes of people ordinarily known by the appellation of dacoits, cozauks, thugs, or buddecks, or of any other description of robbers.—Reg. VI., 1810, sec. ii.

375. If a magistrate shall have grounds to believe that any person of the description of those specified in the first part of the preceding paragraph, shall have neglected to give due information to the magistrate or the police darogah of the resort of any dacoit, cozauk, thug, buddeck, or other robber, to any place within the limits of the estate or farm held or managed by such person, the magistrate shall call upon him to answer to the charge: and if it shall appear, upon a full and impartial inquiry, that the person accused has been actually guilty of the neglect ascribed to him, the magistrate shall sentence the offender to pay such a fine to Government, and to suffer imprisonment for such a period of time as he may deem proportioned to the offence, not exceeding,

however, imprisonment for six months, and a fine of two hundred rupees, commutable, if not paid, to imprisonment for a further period not exceeding six months longer.—Reg. VI., 1810, sec. iii.

376. If a magistrate shall have grounds to suspect that any zemindar, or other person of the description of those mentioned in the preceding paragraphs, has afforded any actual assistance in harbouring a dacoit, cozauk, thug, buddeck, or other robber, subsequently to the promulgation of this Regulation (that is, if such person shall be suspected of having afforded to the said offender lodging, money, grain, or other supplies, or that he has committed any other overt act, tending to aid the offender in his depredations upon the community or to evade the pursuits of justice, or that he has received any present or nuzzur, either in money or goods, from the said offender), the magistrate shall call upon the person suspected of having so offended for his reply; and if it shall appear, upon a full and impartial inquiry, that he has been actually guilty of the serious offence ascribed to him, the magistrate, in addition to the punishment mentioned in the preceding paragraph, shall adjudge the estate or farm held by him (supposing him to be a sudder zemindar, talookdar, or farmer) forfeited to Government. Provided, however, that previously to carrying the judgment of forfeiture into execution, the magistrate shall submit his proceedings on the subject to the Court of Nizamut Adawlut, who will confirm or annul the judgment so passed, according as they may be of opinion that the charge has been duly established, or otherwise. Provided, moreover, that in the event of their confirming the judgment, the Nizamut Adawlut shall report the case to the Governor-General in Council, at the same time stating their opinion, whether the forfeiture should be enforced or remitted, or commuted to a fine.—Reg. VI., 1810, sec. iv.

377. Should the person convicted of the offence mentioned in the preceding paragraph not be a proprietor or sudder farmer of land, the magistrate shall sentence him, in addition to the punishment noticed in paragraph 375, to such further fine and imprisonment as he may deem proportioned to his offence; but previously to carrying such further judgment into effect, the magistrate shall submit his proceedings to the Nizamut Adawlut, who will finally confirm, amend, or rescind the decision, as may appear to them to be just and proper. Should the person so offending be also an officer of Government, the Nizamut Adawlut shall, at the same time, order him to be dismissed from his office, and shall further report to the Governor-General in Council whether it appear expedient that the offender should be declared incapable of again serving Government in any public capacity.—Reg. VI., 1810, sec. v.

378. All zemindars, talookdars, and other proprietors of lands, whether malguzary or lakhiraj, all sudder farmers and under-renters of land of every description, all dependent talookdars, all naibs and other local agents, all native officers employed in the collection of the revenue and rents of lands on the part of Government or of the Court of Wards, are declared accountable for the early communication to the magistrate, either secretly or publicly, of all information which they may obtain respecting the residence of any notorious receiver or vender of stolen property, or respecting the commission of robberies, or the offence of breaking into houses, tents, or boats, or other places of habitation, or respecting the commission of murders, or the offences of arson or theft, committed within the limits of the estate or farm held or managed by them; and any landholder or other description of persons above noticed, to whom such responsibility is declared to attach, who may neglect to give the information hereby required to the police darogah or to the magistrate, shall, on proof of such neglect, after a full and impartial inquiry, be sentenced by the magistrate to imprisonment not exceeding six months, or a fine of two hundred rupees, commutable, if not paid, to imprisonment for a further period, not exceeding six months.—Reg. I., 1811, sec. x.; Reg. III., 1812, sec. iv., cl. 2; Reg. VIII., 1814, sec. ii.

379. All zemindars, talookdars, or other proprietors of land, whether malguzary or lakhiraj; all sudder farmers and under-renters of land of every description; all dependent talookdars; all naibs and other local agents; all native officers employed in the collection of the revenue and rents of lands on the part of Government, or the Court of Wards; and all munduls or other head men of villages, are declared especially accountable for the immediate communication to the officers of the nearest police station of any intended suttee or burning or burying alive of any Hindoo widow; and any zemindar, or other description of persons above noticed, to whom such responsibility is declared to attach, who may be convicted of wilfully neglecting or delaying to furnish the information above required, shall be liable to be fined by the magistrate or joint magistrate in any sum not exceeding two hundred rupees, and in default of payment, to be confined for any period of imprisonment not exceeding six months.—Reg. XVII., 1829, sec. iii., cl. 1.

380. The magistrates of the several zillahs and cities shall cause to be prepared registers of the names of the following descriptions of persons: register of convicts who have broken jail, or have otherwise effected their escape; register of persons charged with or suspected of the commission of specific crimes of a heinous nature, who may have eluded the pursuits of justice.—Reg. III., 1812, sec. ix., cl. 1.

381. The registers above prescribed shall be regularly revised and kept up by the several magistrates, who shall forward copies of them, on the 1st of January and the 1st of July in each

year, to the superintendents of police respectively, for their information.—Reg. III., 1812, sec. ix., cl. 2.

382. At the expiration of every period of six months, or oftener when circumstances may appear to require it, the zillah and city magistrates shall cause lists to be prepared from the above-mentioned registers of all persons therein named who may not have been apprehended, and shall transmit copies of the said lists to the principal landholders, farmers, and managers of land, together with warrants for the apprehension of the persons therein named, agreeably to the prescribed forms. Transcripts of the lists thus prepared shall be at the same time transmitted by the magistrates, under their official seal and signature, to the police darogahs for their information.—Reg. III., 1812, sec. ix., cl. 3.

383. The magistrates shall be careful to obtain from the landholders, farmers, and managers of land, or from their representatives, to whom the said lists and warrants may be delivered, written acknowledgments of the receipt of them.—Reg. III., 1812, sec. ix., cl. 4.

384. All zemindars, talookdars, and other proprietors of lands, whether malguzary or lakhiraj, all sudder farmers and under-renters of land of every description, all dependent talookdars, all naibs and other local agents, all native officers employed in the collection of the revenues and rents of lands on the part of Government or of the Court of Wards, to whom the lists and warrants mentioned in the preceding paragraphs shall have been delivered, are authorized either to cause the immediate apprehension of any of the persons named in either of the said lists who may be found within the limits of the estates held or managed by them, or to apply to the nearest police-officer for any aid which may be required in the execution of that duty, or simply to communicate to such officer such information as may have been obtained respecting the place to which the persons in question may resort, or in which they may be concealed.—Reg. III., 1812, sec. ix., cl. 5.

385. Persons who may be apprehended under the provisions of this Regulation shall be delivered as speedily as possible into the charge of the nearest darogah or other officer of police, for the purpose of being forwarded under safe custody to the magistrate, and an acknowledgment shall uniformly be given by such darogah or other officer of police, specifying the names of the prisoners and date on which they were delivered into his charge.—Reg. III., 1812, sec. ix., cl. 6.

386. The several zemindars, farmers, and local agents, to whom warrants and lists of public offenders shall have been furnished under this Regulation, are required to transmit to the magistrates returns of all persons who may have been apprehended by them, or by means of information given by them to any police-officer during the preceding six months; counterparts of which returns shall at the same time be transmitted by the several zemindars, farmers, or local agents, by means of the public dawks, to the office of the superintendent of the police.—Reg. III., 1812, sec. ix., cl. 7.

387. In like manner, the several darogahs shall transmit, at the periods above specified, returns of all persons named in the list with which they had been furnished who may have been apprehended by them, accompanied by any explanation which they may wish to offer in the event of no persons having been apprehended. Copies of the prescribed returns and explanations shall at the same time be forwarded by the police darogahs, by means of the public dawks, to the office of the superintendent of police; and such returns are to be invariably made, whether any persons shall have been apprehended or otherwise.—Reg. III., 1812, sec. ix., cl. 8.

388. The zillah and city magistrates shall cause it to be explained to all persons to whom warrants shall be granted for the apprehension of persons under the provisions of this Regulation, that if, in the legal execution of such warrants, either by themselves or by any person or persons acting under their authority, any resistance be made by the party named in the warrant or by any other person (the said warrant being shown to the party so resisting), such zemindar, farmer, or local agent, or other person acting under their authority, by whom the warrant may be executed, will be held guiltless with respect to any consequences which may ensue from such resistance to the execution thereof.—Reg. III., 1812, sec. x., cl. 1.

389. Any resistance by any person whatever of any warrant or process of the Court issued under this Regulation, shall be punishable in the same manner as is prescribed by the existing Regulations for resistance of process of the zillah and city magistrates.—Reg. III., 1812, sec. x., cl. 2.

390. The magistrates of the several zillahs and cities shall cause it to be carefully explained to the zemindars, farmers, and their local agents, to whom warrants shall be granted under this Regulation, that they will not be required either to become prosecutors or to attend the Court, or to adduce evidence, or otherwise be subjected to any personal inconvenience or expense on account of any charge or prosecution which may be depending or may be instituted against any person or persons legally apprehended by them under this Regulation, or who may be apprehended by means of any information which they may furnish to any police-officer of Government.—Reg. III., 1812, sec. xi., cl. 1.

391. In the event of any evidence being required by the magistrate in regard to the general

character of any party apprehended by means of any zemindar, farmer, or local agent, or in respect to any other point or matter which shall not be furnished by the proceedings which may have been previously held by the court, or by any other records of the magistrate's office, the magistrate shall cause such evidence to be procured by means of the regular police-officers of Government.—Reg. III., 1812, sec. xi., cl. 2.

392. Whenever any zillah or city magistrate shall have grounds to believe that any zemindar, farmer, or manager of land, shall have been guilty of any neglect or misconduct in the discharge of the duty imposed upon him by this Regulation, the magistrate shall call upon him to answer to the charge; and if it shall appear, upon a full and impartial inquiry, that the person accused has been actually guilty of the neglect or misconduct ascribed to him, the magistrate shall sentence the offender to pay such a fine to Government, and to suffer imprisonment for such a period of time as he may deem proportioned to the offence, not exceeding, however, imprisonment for six months, and a fine of two hundred rupees, commutable, if not paid, to imprisonment for a further period not exceeding six months longer.—Reg. III., 1812, sec. xii.

393. The magistrates of the several zillahs and cities are empowered to grant lists and warrants for the apprehension of any persons of the description of those described in paragraph 380, prepared in the manner prescribed, to any individual with his consent, not being a zemindar, farmer, or local agent for the management of lands, or regular police-officer of Government; and the provisions of this Regulation shall be held applicable to the legal execution of any warrant of the magistrate by any person so employed.—Reg. III., 1812, sec. xiii.

394. The principal persons residing in villages, whether landholders or farmers, or other local managers or munduls, patwarries, or other heads of villages, and also chokeedars, and village guards of every description, are declared responsible for the early and punctual communication to the officers of the nearest police station, of the resort to, or passage through their villages, of any considerable body of strangers, or of the assemblage of such bodies within the limits of their villages, together with any particulars which they may be able to collect, as to the alleged object of their assemblage or journey, or any suspicions which may arise as to their real character and intentions. Any landholder or farmer, or other local manager or mundul, putwarry, or other heads of villages, who shall wilfully neglect or delay to give the information above required, shall, on proof of such neglect, after a full and impartial inquiry, be sentenced to suffer imprisonment not exceeding six months, and to pay a fine of two hundred rupees, commutable, if not paid, to imprisonment for a further period of six months.—Reg. IX., 1807, sec. xix.; Reg. III., 1821, sec. vii., cl. 5.

395. The principal persons residing in villages, whether landholders or farmers, or other local managers or munduls, putwarries or other heads of villages, are declared responsible for the early and punctual communication to the officers of the nearest police station, of all unnatural deaths, or deaths attended with suspicious circumstances, which may come to their knowledge; and any landholder, farmer, manager, or other principal inhabitant of a village, who may be convicted of wilfully neglecting or delaying to furnish the information above required, shall be liable to be fined by the magistrate in any sum not exceeding two hundred rupees; and in default of payment, to be confined for any period of imprisonment not exceeding six months.—Reg. XX., 1817, sec. xiv., cl. 1.

# CRIMINAL JUDICATURE.

## RULES AFFECTING THE CRIMINAL COURTS GENERALLY.

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# CRIMINAL JUDICATURE.

## RULES AFFECTING THE CRIMINAL COURTS GENERALLY.

### ATTENDANCE AND EXAMINATION OF WITNESSES.

NOTE.—The rules of sec. vi., Reg. IV., 1793, respecting the attendance and examination of witnesses, which are extended to the practice of the Criminal Courts by sec. ii., Reg. L., 1803, have been, in a great measure, superseded by the provisions of Act. XIX., 1853, as regards Civil Procedure; but they have not been affected as respects the Criminal Courts.

1. The Court shall summon the witnesses whom the party may name, except Mahomedan or Hindoo women of a rank or quality which, according to the usage of the country, would render it improper to compel them to appear in a court of justice. If a witness so summoned shall not attend on the day appointed, the judge shall cause the witness to be apprehended and brought into Court, and shall impose on him a fine not exceeding five hundred rupees. If a witness attending shall refuse to give his evidence or to subscribe his deposition, the judge shall commit him to close custody, and shall call upon him a second time after such interval as may by the Court be judged sufficient (not being less than one entire day), when, if the witness persist in his refusal to give evidence, he shall be fined in proportion to his situation in life (not exceeding the amount limited), and confined in the gaol of the Civil Court until the fine be discharged, or for such period of imprisonment as may be fixed in lieu of the fine, under Section III., Regulation XIV., 1797 ("PUNISHMENTS," paragraph 20); or, if the cause or trial in which the evidence of the witness may be requisite shall be still depending, until he shall consent to give his evidence therein; after which, in such case, he shall be released and the fine remitted.—Reg. L., 1803, sec. ii., cls. 1 and 2; and Reg. IV., 1793, sec. vi.

2. Provided, however, that it be not considered necessary that any trial before a Sessions Court be postponed to a future session for the evidence of a witness confined under the preceding paragraph, unless the judge should think it proper to postpone the same on this account, under the discretion vested in him by Section XLIX., Regulation IX., 1793 ("SESSIONS COURT," paragraph 19); nor shall it be necessary to postpone the decision of any criminal case, for the evidence of a witness so confined, beyond such period as may appear proper to the Court before which the suit or trial may be depending.—Reg. L., 1803, sec. ii., cl. 3.

3. Provided also, that all fines imposed by the zillah and city magistrates, whether for the non-attendance of witnesses duly summoned, or for the refusal to give evidence, shall be reported at the next ensuing gaol delivery, with all proceedings relative thereto, to the judges of the Sessions Courts; who, in the event of any representation being made to them relative to such fine, are to examine the magistrate's proceedings, and report to the Nizamut Adawlut if the fine shall appear to be immoderate or to have been imposed on insufficient grounds; or if otherwise, are to inform the party complaining by a written order on his petition.—Reg. L., 1803, sec. ii., cl. 4.

4. In the examination of parties and witnesses before the Sessions Courts, and also before the zillah and city magistrates, the following rules, in addition to those already established, are to be strictly attended to.—Reg. IV., 1797, sec. vii., cl. 1.

5. All examinations of parties and witnesses are to be taken down in the language and character in which the person examined may desire to have the same recorded, and such person, whether party or witness, is to be allowed to read the same when finished; or if unable to read, it is to be read to him; after which, if he admit the record to be correct, he is to affix his name or mark to it; and the judge, magistrate, or other officer before whom such examination may have been taken, is to certify the same under his official signature on the original record, that the proceedings may be complete for the perusal of the law officers of the Sessions Court, as well as those of the Nizamut Adawlut, in the event of the trials being referred to that Court.—Reg. IV., 1797, sec. vii., cl. 2.

6. In the examination of witnesses, leading questions suggesting an answer, or having tendency to such suggestion, are to be carefully avoided, and the interrogatories to them are to be proposed in such general terms as may bring forth all the information they possess and lead to a discovery of the truth. With this view, the parties are to be allowed to cross-examine the witnesses; and the judge or magistrate should also cross-examine them, when necessary, for the same purpose.—Reg. IV., 1797, sec. vii., cl. 3.

7. All examinations of parties and witnesses, besides the name of the person examined, are to specify the name of his or her father, and if a married woman, the name of her husband, also the religion, caste, profession, and age of the party or witness, and the village and pergunnah in which they reside.—Reg. IV., 1797, sec. vii., cl. 4.

8. When any stolen property or instruments of violence, stated to have been found upon the prisoners or in their houses, are produced before the magistrate or Sessions Court, the prosecutor, and any witnesses brought to give evidence thereupon, are to be carefully examined relative to the identity of such property or instruments recognized by them, and the circumstances of the same having been found upon the prisoners or in their houses. The principle of this rule is to be further applied in all instances of circumstantial evidence to which it may be applicable.—Reg. IV., 1797, sec. vii., cl. 5.

9. With a view to impress upon the witnesses the necessity of caution and accuracy in delivering their evidence, it shall be the duty of the Mollah-koranee, or of the Brahmin, to repeat aloud to them, in the language which they best understand, the following admonition, immediately after they shall have been sworn, or shall have made a solemn affirmation respectively, viz.:—"In delivering your evidence under the oath or affirmation now administered, you are required to declare the truth, the whole truth, and nothing but the truth. You are carefully to distinguish what you personally know as an eye-witness, or otherwise, from what you may have heard from others; and are solemnly bound to answer all questions put to you on the trial before the Court, without any regard to the prosecutor or prisoner, to the best of your information and belief."—Reg. IV., 1797, sec. vii., cl. 6; and Act XXI., 1837, sec. i.

10. The Sessions Courts are to be careful to notice on their proceedings any material differences between the depositions of the same witnesses before them and the magistrates, and are to question the witnesses thereupon and record their answers; but the depositions taken before the magistrates are not to be read before the Sessions Court in the presence of the persons who gave the same, until they shall have been re-examined before the Sessions Court.—Reg. IV., 1797, sec. vii., cl. 7.

11. No person shall, by reason of any conviction for any offence whatever, be incompetent to be a witness in any stage of any cause, civil or criminal, before any Court in the territories of the East-India Company.—Act XIX., 1837.

### APPEALS AND REVISION OF PROCEEDINGS.

12. From every sentence or order in criminal trials, within the limitation prescribed by Sections VIII. and IX., Regulation IX., 1793 ("MAGISTRATES," paragraphs 47 and 48), for the Lower Provinces, and the corresponding enactments for the other provinces; or in judicial proceedings other than criminal trials passed by an assistant to a magistrate, or by a sudder aumeen, or by a law officer, or by any other officer under a magistrate empowered to try criminal cases, there shall be permitted one appeal to the magistrate, joint magistrate, or officer exercising the powers of magistrate, within one month from the date of such sentence or order. And from every sentence or order in criminal trials beyond the limitation prescribed by the rules above referred to, or in judicial proceedings other than criminal trials passed by a magistrate, joint magistrate, assistant to a magistrate vested with special powers, or other officer empowered to try criminal cases, there shall be permitted within one month as aforesaid one appeal to the sessions judge. And from every sentence or order passed in criminal trial by a sessions judge, there shall be permitted within three months one appeal to the Court of Nizamut Adawlut. And, except as provided in paragraph 14, the sentences or orders passed upon such appeals shall be final.—Act XXXI., 1841, sec. ii.

13. It shall not be competent to a sessions judge to interfere with any order passed by a zillah or city magistrate, or joint magistrate, regarding the appointment, suspension, or removal of any ministerial or police officer, the revision of which has been intrusted to the superintendent of police, by Section IV., Act XXIV., 1837 ("POLICE," paragraph 5).—Act. XXIV., 1837, sec. v.

14. It shall be at all times lawful for the Courts of Nizamut Adawlut to call for the records of any criminal trials of any subordinate court and to pass upon them such orders as may seem fit.—Act. XXXI., 1841, sec. iii.

15. It shall be at all times lawful for a sessions judge and for a magistrate, joint magistrate, or officer exercising the powers of magistrate, to call for and examine the records of any court immediately subordinate to their respective courts, for the purpose of satisfying themselves as to the regularity of the proceedings of such subordinate courts: but it shall not be lawful for any court under the degree of the Nizamut Adawlut to alter any sentence or order of any subordinate court, except upon appeal duly made, by parties concerned.—Act. XXXI., 1841, sec. v.

16. The Nizamut Adawlut, in any case in which it shall appear to them, upon a review of the abstract statements or calendars of prisoners punished without reference, that the sentence passed is one which cannot lawfully be passed on a person convicted of the offence as stated in the abstract statement or calendar, shall annul the sentence, and shall certify to the subordinate court the sentence or sentences which may lawfully be passed for such offence, and thereupon the

subordinate court shall pass a new sentence according to law, and shall amend the record in accordance therewith.—Act XIX., 1848, sec. ii.

17. The Nizamut Adawlut, in any case in which it shall appear to them, upon a review of the abstract statements or calendars of prisoners punished without reference, that the verdict or judgment pronounced on any prisoner was not warranted by the evidence, or that his sentence was too severe, may, if it thinks fit, require the judge of the court in which the conviction was had to certify under his hand all the evidence taken in the case affecting such prisoners, with any observations which the judge may be desirous of making in explanation of the verdict, judgment, or sentence, and thereupon the Nizamut Adawlut, as the case may be, may annul such verdict, judgment, and sentence, if the verdict or judgment shall appear to it not warranted by the evidence, or mitigate the sentence, if it shall appear too severe, and in either case shall certify its proceedings to the court in which the conviction was had, which shall thereupon make such orders as are conformable to the decision of the Nizamut Adawlut, and, if necessary, amend the record in accordance therewith.—Act XIX., 1848, sec. iii.

18. Instead of proceeding under Act XIX., 1848, the Nizamut Adawlut may, whenever it thinks fit, call for the whole record of any criminal trial in any subordinate court, and pass thereon such orders as it thinks fit, but not so as to enhance the punishment awarded, or punish any person acquitted in the subordinate court.—Act XIX., 1848, sec. iv.

19. It shall be competent to the Court of Nizamut Adawlut to revise the proceedings of the magistrates and joint magistrates, and superintendents of police, in any case in which a pardon may have been tendered to an accomplice or accessary, and to annul the orders passed on such proceedings, should it appear to the Superior Court that a pardon has been granted on insufficient grounds.—Reg. X., 1824, sec. v., cl. 3.

20. The orders of the superintendents of police in regard to the appointment, suspension, or removal of a ministerial or police officer of a zillah or city magistrate, or joint magistrate, shall not be open to revision by the Nizamut Adawlut.—Act XXIV., 1837, sec. vi.

### RIGHT OF DEFENCE BY AUTHORIZED AGENTS.

21. In all courts and before all magistrates, or persons exercising any of the powers of a magistrate, under the authority of the East-India Company, every person on trial for the commission of any offence shall be admitted to defend himself either personally or by his authorized agent, and after the close of the case for the prosecution, to make full answer and defence thereto either personally or by his authorized agent.—Act XXXVIII., 1850, sec. i.

22. The said Courts, magistrates, and persons, subject to such rules as shall be from time to time made for their guidance by the Nizamut Adawlut, may allow any prosecution to be conducted by an authorized agent.—Act XXXVIII., 1850, sec. ii.

23. In those courts in which any person now has by law the right of employing whomsoever he can employ as counsel or pleader, nothing in this Act shall be deemed to restrict that right: in all other cases those persons only shall be deemed authorized agents within the meaning of this Act who are either advocates of one of the Supreme Courts of Justice established by royal charter, or authorized pleaders of the Civil Courts of the East-India Company, or by leave of the court, magistrate, or other person before whom the prisoner is on trial, any other person who is employed by the prosecutor or prisoner as his agent.—Act XXXVIII., 1850, sec. iii.

24. The above rules shall not be deemed to dispense with the presence of any person on trial for the commission of any offence when the presence of such accused person is now by law required.—Act XXXVIII., 1850, sec. iv.

### GENERAL RULES.

#### *Government Prosecution.*

25. In charges preferred and prosecutions conducted on the part of Government, the vakeel of Government, or other person acting as prosecutor for Government, shall not be required to make oath or subscribe a declaration to the truth of the charge, when preferring it to the magistrate or stating it before the Sessions Court.—Reg. L., 1803, sec. iv.

#### *Reimbursement of Costs.*

26. The Criminal Courts are authorized to adjudge a reimbursement of costs actually incurred, upon a prosecution before them by either of the parties thereto, in particular instances wherein they may consider such reimbursement just and equitable.—Reg. XIV., 1797, sec. viii.

# CRIMINAL ENACTMENTS OF LOCAL OPERATION.

NOTE.—Under this head are included all Regulations which are in force only in particular localities, whether in entire Provinces, as Benares and the Ceded and Conquered Provinces, or in divisions of more limited extent. The whole of such local Regulations are enumerated in the following lists, but as many of their provisions are identical with those previously enacted for the Lower Provinces, it has been deemed sufficient to notify in the lists the corresponding rules, and to indicate the places where they will be found among the rules of general operation. Such enactments as are special, and differing entirely from rules previously enacted, are printed at length.

The rules relating to Police, being most numerous, have been arranged under a separate division.

| Original Regulation or Act. | Paras. in Consolidation. | REMARKS. |
|---|---|---|
| | | *Benares.* |
| 1795. XVI. ii. | | Same as paragraph 3, "Magistrates." |
| iii. | | Same as paragraph 8, "Magistrates." |
| iv. 1. | | Extends secs. iv. to xxx., Reg. IX., 1793, to Benares. |
| 2. | 1 | |
| 3. | | Rescinded by sec. ii., Reg. VII., 1829. |
| 4, 5. | | Superseded by Act XXIX., 1837. |
| 6. | | Rescinded by sec. xiii., Reg. XVI., 1810. |
| v. to xxi. | | Superseded. |
| xxii. | | Extends secs. xlvii. to end of Reg. IX., 1793, to Benares. |
| xxiii. | | Rescinded by sec. xv., Reg. XVII., 1817. |
| xxiv. | | Repealed by Act XVIII., 1844. |
| 1795. XXI. | | |
| i. to vi. | 2 to 7 | |
| vii. | | Modifications from sec. ii., Reg. XIV., 1810; and sec. xv., Reg. XVII., 1817, introduced. |
| viii. | | |
| ix., x. | | Modifications from Reg. XIV., 1810, introduced. |
| xi., xii. | | Rescinded by Reg. VII., 1820. |
| xiii. | 12 | |
| 1817. XVII. xv. | 13 | |
| | | *Ceded Provinces.* |
| 1803. VI. ii. | | Same as paragraph 3, "Magistrates," general. |
| iii. | | Same as paragraph 8, "Magistrates," general. |
| iv. to xii. | | Same as secs. iv. to xii., Reg. IX., 1793, for which see "Magistrates," general table. |
| xiii. | | Rescinded by sec. ii., Reg. VII., 1829. |
| xiv. | | Same as sec. xiv., Reg. IX., 1793; and sec. iv., Reg. IX., 1796. See "Magistrates," paragraphs 93, 94, general. |
| xv. to xviii. | | Same as secs. xv. to xviii., Reg. IX., 1793. See "Magistrates." |
| xix. | | Same as secs. ii., iii., iv., Reg. II., 1796. See "Magistrates." |
| xx., xxi. | | Same as secs. xx., xxi., Reg. IX., 1793. See "Jails and Prisoners." |
| xxiii. | | Rescinded by sec. xiii., Reg. XVI., 1810. |
| xxiv. to xxvi. | | Same as secs. xxv. to xxvii., Reg. IX., 1793. See "Magistrates." and "Sessions Court." |
| xxvii. | | Rescinded by sec. ii., Reg. VII., 1829. |
| xxviii. | | Superseded. |
| xxix., xxx. | | Rescinded by sec. ii., Reg. VII., 1829. |
| xxxi. | | Same as paragraph 20, "Punishments." |
| xxxii. and xxxiii. | | Same as secs. ii. and iii., Reg. IX., 1796. See "Magistrates." |
| xxxiv. | | Extinct. |
| 1803. VII. | | |
| ii. to iv. | | Rescinded by sec. v., Reg. I., 1829. |
| v., vi. | | Same as secs. xxxiv. and xxxv., Reg. IX., 1793. See "Sessions Court" and "Sudder Court." |

| Original Regulation or Act. | Paras. in Consolidation. | REMARKS. |
|---|---|---|
| 1803. VII. vii. | | Rescinded by sec. v., Reg. I., 1829. |
| viii. | | Same as sec. xxxvii., Reg. IX., 1793. See "Sudder Court." |
| ix. | | Rescinded by sec. iv., Reg. XVIII., 1817. |
| x. | | Superseded. |
| xi. to xiv. | | Rescinded by sec. v., Reg. I., 1829. |
| xv. 1. | | Same as sec. xlvii., Reg. IX., 1793. See "Sessions Court." |
| 2. | | Same as sec. iii., Reg. IV., 1797. See "Specific Offences," para. 1. |
| xvi., xvii. | | Same as secs. xlviii. and xlix., Reg. IX., 1793. See "Sessions Court." |
| xviii. | | Same as sec. vii., Reg. IV., 1797. See "Rules affecting the Criminal Courts generally." |
| xix. to xxiii. | | Same as secs. l., li., liii., and liv., Reg. IX., 1793. See "Specific Offences," "Mahomedan Law." |
| xxiv. | | Superseded. |
| xxv. to xxvii. | | Same as secs. lvi., lvii., and lviii., Reg. IX., 1793. See "Sessions Court." |
| xxviii. | | Rescinded by sec. v., Reg. XII., 1825. |
| xxix. | | Superseded. |
| xxx. | | Same as paragraph 34. See "Sessions Court." |
| xxxi. | | Superseded. |
| xxxii. | | Rescinded by Act XVIII., 1844. |
| xxxiii. | | Same as paragraph 12, "Sessions Court." |
| xxxiv. | | Same as paragraph 3, "Specific Offences." |
| xxxv. | | Rescinded by Act II., 1849. |
| xxxvi., xxxvii., xxxviii. | | Same as secs. xii., xiii., and xiv., Reg. IV., 1797. See "Sessions Court." |
| xxxix. 1. | | Same as paragraph 20, "Punishments." |
| 2. | | Same as sec. iv., Reg. XIV., 1797. See "Mahomedan Law." |
| 3. | | Same as secs. vii. and viii., Reg. XIV., 1797. See "Rules affecting the Criminal Courts generally." |
| xl. | | Rescinded. |
| xli. | | Same as paragraph 32, "Sessions Court." |
| xlii. | | Extinct. |
| 1803. VIII. | | |
| ii., iii., iv. | | Superseded. |
| v. | | Same as sec. vi., Reg. II., 1801. See "Sudder Court." |
| vi. | | Same as paragraph 1, "Nizamut Adawlut," and sec. xvi., Reg. II., 1801. See "Sudder Court." |
| vii. | | Same as sec. xvii., Reg. II., 1801. Sec. lxix., Reg. IX., 1793. See "Sudder Court." |
| viii. | | Superseded. |
| ix. | | Same as paragraph 3, "Nizamut Adawlut." |
| x. 1. | | Same as paragraph 4, "Specific Offences." |
| 2. | | Same as paragraph 14, "Specific Offences." |
| 3, 4, 5, 6. | | Same as paragraphs 15, 17, 18, and 16, "Specific Offences." |
| xi. | | Same as paragraph 2, "Specific Offences" |
| xii., xiii. | | Same as paragraphs 4 and 14, "Nizamut Adawlut." |
| xiv. | | Rescinded. |
| xv. to xvii. | | Same as paragraphs 5 to 7, "Specific Offences." |
| xviii. | | Superseded. |
| xix. to xxi. | | Rescinded by sec. ii., Reg. XIV., 1810. |
| xxii. | | Rescinded by sec. ix., Reg. LIII., 1803. |
| xxiii. | | Same as sec. vi., Reg. II., 1799. Paragraph 50, "Jails and Prisoners." |
| xxiv. | | Same as sec. xiv., Reg. II., 1801. |
| xxv. 1. | | Part superseded by Act V., 1840; the rest is the original of Reg. L., 1803. See "Rules affecting the Criminal Courts generally." |
| xxvi. | | Extinct. |
| 1803. XX. | | Same as Reg. IV., 1799. Superseded by Act V., 1841. |
| 1804. III. | | |
| ii. 1 to 4. | | Same as clauses 1 to 4, sec. ii., Reg. XI., 1796. See "Process." |
| 5. | | Same as sec. v., Reg. IX., 1801. See "Process." |
| 6. | | Same as clause 5, sec. ii., Reg. XI., 1796. See "Process." |
| iii., iv. | | Same as secs. iii. and iv., Reg. XI., 1796. See "Process." |

## CRIMINAL ENACTMENTS OF LOCAL OPERATION.

| Original Regulation or Act. | Paras. in Consolidation. | REMARKS. |
|---|---|---|
| 1804. III. v., vi. | | Rescinded. |
| vii. | | Same as paragraph 1. |
| ix., x. | | Rescinded. |
| xi. | | Same as the enacting part of paragraph 12. |
| | | *Conquered Provinces.* |
| 1804. IX. ii. | | Superseded. |
| iii., iv. | | Superseded by the power given to Government of altering and creating zillahs. |
| v. | | Superseded. |
| vi. to viii. | 14 to 16 | |
| ix. | | Under "Police." |
| x., xi., xii. | | Extinct. |
| | | *Ceded and Conquered Provinces.* |
| 1805. VIII. | | |
| xiv. 1. | | Unnecessary. |
| 2 to 4. | | Superseded. |
| 5 & 6. | 17, 18 | |
| 7. | | Superseded. |
| 8. | | Under "Police." |
| 1813. VII. iii. | | Same as paragraph 85, "Specific Offences." |
| | | *Cuttack.* |
| 1804. IV. ii., iii. | | Superseded. |
| iv., v. | 19, 20 | |
| vi. | | Under "Police." |
| vii. | | Extinct. |
| 1845. XXI. | 21 to 24 | Secs. iii. and iv. of this Act relate only to Madras. |
| 1817. XVII. xv. | 13 | |
| | | *Chandernagore.* |
| 1820. II. | 25 to 29 | |
| | | *Mountaineers of Bhaugulpore* |
| 1827. I. | 30 and 31 | |

# CRIMINAL ENACTMENTS OF LOCAL OPERATION.

## BENARES.

### *Arson.*

1. Setting fire to any house or village is declared to be an offence not bailable.—Reg. XVI., 1795, sec. iv., cl. 2.

### *Koorhs, Wounding Women and Children, and Infanticide.*

2. The reverence paid by the Hindoos to Brahmins, and the reputed inviolability of their persons, and the loss of or prejudice to caste that ensues from proving the cause of their death, have in some places in the province of Benares, and more especially in the pergunnahs of Kuntit and Budhoee, been converted by some of the more unlearned part of them into the means of setting the laws at defiance, from the dread and apprehensions of the persons of the Hindoo religion, to whose lot it must frequently fall to be employed in enforcing against such Brahmins any process or demands on the part of Government. The devices occasionally put in practice under such circumstances by these Brahmins are, lacerating their own bodies, either more or less slightly, with knives or razors; threatening to swallow, or sometimes actually swallowing poison, or some powder which they declare to be such; or constructing a circular enclosure, called a koorh, in which they raise a pile of wood or of other combustibles, and betaking themselves to fasting, real or pretended, place within the area of the koorh an old woman, with a view to sacrifice her by setting fire to the koorh, on the approach of any person to serve them with any process, or to exercise coercion over them on the part of Government or its delegates. These Brahmins likewise, in the event of their not obtaining relief within a given time for any loss or disappointment that they may have justly or unjustly experienced, also occasionally bring out their women or children, and causing them to sit down in the view of the peon who is coming towards them on the part of Government or its delegates, they brandish their swords, and threaten to behead or otherwise slay these females or children, on the nearer approach of the peon; and there are instances in which, from resentment at being subjected to arrest or coercion, or other molestation, they have actually not only inflicted wounds on their own bodies, but put to death with their swords the females of their families or their own female infants, or some aged female procured for the occasion. Nor are the women always unwilling victims; on the contrary, from the prejudices in which they are brought up, it is supposed that in general they consider it incumbent on them to acquiesce cheerfully in this species of self-devotement, either from motives of mistaken honour or of resentment and revenge, believing that after death they shall become the tormentors of those who are the occasion of their being sacrificed. On similar principles, these Brahmins, to realize any claim or expectation, such as the recovery of a debt, or for the purpose of extorting some charitable donation, frequently proceed, either with some offensive weapon or with poison, to the door of another inhabitant of the same town or village, and take post there in the manner called dhurna; and it is understood, according to the received opinions on the subject, that they are to remain fasting in that place until their object be attained, and that it is equally incumbent on the party who is the occasion of such Brahmin's thus sitting, to abstain from nourishment until the latter be satisfied. Until this is effected, ingress and egress to and from his house are also more or less prevented, as, according to the received opinions, neither the one nor the other can be attempted but at the risk of the Brahmin's wounding himself with the weapon, or swallowing the powder or poison with which he may have come provided. These Brahmins, however, are frequently obliged to desist, and are removed from sitting dhurna by the officers of the Courts of justice without any ill consequence resulting, it having been found by experience that they seldom or ever attempt to commit suicide, or to wound themselves or others, after they are taken into the custody of Government. The rules and measures adopted for putting a stop to these abuses, and for preventing the revival of the still more savage custom which, until within these few years, had been generally prevalent amongst the tribe of Raujekoomars inhabiting the borders of the province near Juanpoor, of destroying their infant female children by suffering them to perish for want of sustenance, are hereby enacted with modifications into a Regulation.—Reg. XXI., 1795, sec. i.

3 Upon information in writing being preferred to the magistrate of the City or Zillah Court against any Brahmin or Brahmins for establishing a koorh, or for being prepared to maim, wound, or slaughter his women or children, or any or either of them, in the manner described in the preamble to this Regulation, or in any manner substantially similar thereto, on account of any subject of discontent or any other account whatsoever, in such case, upon oath or affirmation being made to the truth of the information, the magistrate is immediately to address to the said Brahmin or Brahmins a written notice in the Hindostanee language and Nageree character, and under his official seal, which notice is to be served on him or them by such of the relations, friends, or connections of the said Brahmin or Brahmins as the magistrate may think fit, and have an opportunity of employing for the purpose, and in default of such relations, friends, or connections of the said Brahmin or Brahmins, the magistrate is to cause the notice to be served by a single peon of the same religion, and the notice shall require the said Brahmin or Brahmins to remove the koorh, and the women and people that may be placed in it, or to desist from any preparation toward wounding or slaughtering the women or children, according as either or both of these facts shall be charged in the information The notice shall also contain a positive and encouraging assurance to the Brahmin or Brahmins in question, that on his or their complying with the principal exigence thereof, by removing the koorh and the person or persons therein, or by desisting from any preparation to wound or slaughter the women and children, and thereon repairing (as such Brahmin or Brahmins may think fit), in person or by vakeel, to the City or Zillah Court, proper inquiry shall be made concerning the dispute that may have given occasion to the act or acts thus prohibited But if the issuing of the notice shall not have the effect of inducing the said Brahmin or Brahmins to comply with the exigence thereof, a written return to that purpose is to be made and attested by the party or parties intrusted with the serving of it, and the magistrate is thereon to issue a warrant, under his official seal and signature, for the apprehension of the said Brahmin or Brahmins, specifying the misdemeanor and contumacy with which he or they stand charged, and the execution of the warrant is to be committed to peons of the Mahomedan religion, nor is any Hindoo to be sent on such duty On the Brahmin or Brahmins against whom the warrant shall have been issued being brought before the magistrate, he or they are to be dealt with in the mode prescribed in Section V, Regulation IX, 1793, ("MAGISTRATES," paragraphs 27, 29, 31, and 38), respecting persons charged with crimes or misdemeanors, and if it shall appear to the magistrate on the previous inquiry, which by the said section he is himself directed to make, that the misdemeanor or misdemeanors charged (that is, the constructing of the koorh, or being prepared to wound or slay the women or children according as either or both of these acts shall have been charged) were actually committed, and that there are grounds for suspecting the prisoner or the prisoners respectively to have been concerned, either as a principal or an accomplice, in the perpetration of either or both of these acts, the magistrate shall cause him or them to be committed to prison or held to bail (according as the parties shall appear to have been principals or accomplices), to take his or their trial before the Sessions Court, and shall bind over the informant or complainant, and the witnesses, to appear at the trial, in the manner prescribed in the aforesaid section —Reg XXI, 1795, sec. II

4 The Sessions Court shall conduct the trial of the Brahmin or Brahmins charged with the above offences in the manner prescribed in Regulations IX, 1793, and XVI, 1795, in respect to other offences, but as the Mahomedan law cannot adequately apply to offences of this local nature, it is therefore hereby provided and ordered, that where, in the opinion of the Sessions Court, the charge of being a principal in respect to the constructing of a koorh, or to having been prepared to wound or slay the women or children, shall be proved, the said Court shall sentence the prisoner to the payment of a fine equal to the amount of his annual income, which is to be estimated according to the best information that they may be able to procure respecting it, and on proof, to the Court's satisfaction, of the prisoner's being guilty only as an accomplice, he shall be sentenced to the payment of a fine equal to one-fourth of his estimated annual income In all cases of parties being sentenced to the payment of such fines, they are to be committed to and are to remain in gaol until the amount thereof be paid, or until they shall have delivered to the Sessions Court, or after the said Court's departure, to the magistrate, full and ample mal-zaminy or security to pay the same within six months from the date of their release, and such parties, before their enlargement, either in consequence of their having liquidated, or having entered into security for the payment of the fine imposed on them, shall deliver into the Sessions Court, or in their absence to the magistrate, fael zaminy or satisfactory security from one or more creditable persons, not to offend in like manner in future.—Reg XXI, 1795, sec III

5 All sentences passed by the Sessions Court under the preceding paragraph, without, however, any intermediate suspension of their execution, are to be transmitted within ten days after their being passed to the Nizamut Adawlut, which Court may order such mitigation and restitution of the fine or fines thereby imposed, as may be thought proper, but until the order

be issued by the Nizamut Adawlut, the sentence of the Sessions Court is to be considered in full force, and to be carried into effect accordingly —Reg. XXI, 1795, sec. iv.

6. In case any Brahmin or Brahmins against whom the city or a zillah magistrate may issue the warrant prescribed in paragraph 3, shall refuse to obey, or resist, or cause to be resisted, the peons deputed to serve it, or escape after being taken by them into custody, or abscond, or shut himself or themselves up in any house or building, or retire to any place so that the warrant cannot be served upon him or them, the magistrate shall issue a precept to the collector requiring him to cause the nearest tehseeldar to attach the lands that such Brahmin or Brahmins may possess in property or in mortgage, or in farm or lakhiraj. The lands shall remain attached until he or they surrender, and the collections made during the attachment, after deducting such revenue as may fall due to Government, shall be accounted for and paid to the party against, or on account of, or in resentment to whom, the koorh was originally established, or the woman or women, or child or children, were to be wounded or slain; and after the surrender or apprehension of the Brahmin or Brahmins who set up the koorh, or was or were prepared to wound or slay his or their women or children, or either of them, his or their lands shall be released, but he or they shall be proceeded against, in respect to his or their trial for the original offence or offences, as prescribed in paragraphs 4 and 5—Reg XXI., 1795, sec. v.

7. In the event of any Brahmin or Brahmins establishing a koorh, or preparing to wound or slay his or their women or children, or any or either of them, with a view to prevent the serving of any dustuck or writ on him or them, for arrears of revenue, by the local tehseeldar, or by the collector of Benares, in the manner in which by Regulation VI., 1795, they are respectively authorized to issue such dustucks; if it be the dustuck of the tehseeldar that is thus opposed, he is not, after being informed thereof, to persist in enforcing it, but is to report the case immediately to the collector, accompanied by the written testimonies of the peon deputed to serve the dustuck; upon receipt of which information, or in case of his own original process being in like manner resisted, the collector is to represent, through the vakeel of Government, the amount of the balance due by such Brahmin or Brahmins, and the circumstances attending the issuing of his own or of his tehseeldar's process for realizing it, to the judge and magistrate of the city or zillah in whose jurisdiction the lands on account of which the arrears shall be due may be situated; and upon the peon deputed with the tehseeldar's or the collector's dustuck, or any other creditable person or persons, attending in court, and making oath or affirmation to the truth of the circumstance stated in the representation of the collector, either as to the constructing of a koorh by such Brahmin or Brahmins, or as to his or their being prepared to wound or slay the women and children, or any of them (according as one or both of these expedients shall be stated to have been resorted to by the Brahmin or Brahmins in question), the magistrate is thereon to issue to such Brahmin or Brahmins a written notice, under his official seal, in the Hindostanee language and Nageree character, which is to be served on him or them by such of the relations, friends, or connections of the said Brahmin or Brahmins as the magistrate may think fit and have an opportunity of employing for the purpose; and in default of such relations, friends, or connections of the said Brahmin or Brahmins, the magistrate is to cause the notice to be served by a single peon of the same religion; and the tenor of it shall require the said Brahmin or Brahmins to remove the koorh, and the women and people that may be placed in it, or to desist from any preparation for wounding or killing the women or children (according as either or both of these offences may be charged in the information), as likewise either to discharge the balance of rent or revenue that shall have been demanded from him or them, or to appear, and entering security for such part of it as he or they may have pleas against the payment of, to file his or their objections to the payment of such part, in the City or Zillah Court, that the merits of the case may be inquired into and decided, according to the principles by which other disputed demands and accounts of revenue are, under Regulation VI., 1795, directed to be determined; and the said notice is also to contain a positive and encouraging assurance to the Brahmin or Brahmins in question, that on his or their complying with the exigence of it, by removing the koorh and the persons therein, or by desisting from any preparation to wound or slay the women and children, and either discharging the balance of revenue in demand, or repairing in person, or deputing a vakeel, to the City or Zillah Court, and entering security for the amount of it, proper inquiry shall be made into the pleas that he or they may have to state against the justice of the demand If the issuing of the notice shall fail to induce the said Brahmin or Brahmins to comply with the requisitions of it, a written return to that effect is to be made and attested by the party or parties intrusted with the serving of it, and the magistrate is immediately to issue a warrant, under his official seal and signature, for the apprehension of such Brahmin or Brahmins, in which shall be specified the misdemeanor, contumacy, and arrear, with which he or they stand charged; and the warrant shall be executed by peons of the Mahomedan religion, as directed in paragraph 3; and if the Brahmin or Brahmins shall refuse to obey, or resist, or cause to be resisted, the peons deputed to serve it, or escape after being taken by them into custody, or abscond, or shut himself or themselves up in any house or

building, or retire to any place so that the warrant cannot be served on him or them, the magistrate, on information to this effect, shall issue a precept to the collector, to cause the nearest tehseeldar to attach the lands that such Brahmin or Brahmins may possess in property or in mortgage, or in farm or lakhiraj; and the lands shall accordingly remain attached, and the profits of them be appropriated by Government, until the liquidation of the balance shall be effected either from the produce, or in consequence of the said Brahmin or Brahmins making good the same from his or their other means; and also until the said Brahmin or Brahmins shall have been brought, or made his or their appearance before the Court, when he or they shall be tried for being concerned, either as principals or accomplices, in setting up the koorh, or for having been prepared to wound or slay his or their women or children, or any or either of them, in the same manner, and with the same reservation as to the mitigation of the sentence, as is specified in paragraphs 3 to 5.—Reg. XXI., 1795, sec. vi.

8. If any Brahmin or Brahmins, on account of any discontent or alarm, well or ill founded, either against Government or its officers or servants, shall establish a koorh, in which any person or persons shall, at any period from its construction until its removal, be burnt to death, or otherwise lose their lives, in consequence of such koorhs being set fire to by any person whomsoever, the Brahmin or Brahmins who shall have caused the construction thereof shall be held chargeable with and made amenable for the crime of murder, as well as the party or parties who may have been immediately employed, or aided in setting fire to the pile or combustibles in question; and upon proof of the fact, to the satisfaction of the Sessions Court, such Brahmin or Brahmins, and such person or persons setting fire to the koorh, shall be sentenced, on trial before the said Court, to suffer the punishment of death, in the same manner as if they had committed and been convicted of kutl amd, or premeditated murder, according to the doctrines of the Mahomedan law: but it is to be at the same time explained to the party or parties thus condemned, as it is also hereby expressly provided, that all such trials, and sentences passed, are by Sessions Court to be submitted (in like manner as is prescribed in Section XLVII., Regulation IX., 1793, "Sessions Court," paragraphs 13 and 24), to the Nizamut Adawlut, and the party or parties condemned under this paragraph are to remain in gaol to await the final judgment of that Court; and if the Court of Nizamut Adawlut shall see cause for not proceeding pursuant to the sentence passed by the Sessions Court, either in respect to the Brahmin or Brahmins who may have caused the construction of the koorh, or to the party or parties who may have been employed or aided in firing it, they shall grant a pardon, or such other commutation by way of mitigation of the punishment, as to the said Court may seem proper.—Reg. XXI., 1795, sec. vii.; Reg. XIV., 1810, sec. ii.; Reg. XVII., 1817, sec. xv.

9. If any Brahmin or Brahmins, under the circumstances, and in the manner described in the preceding paragraphs, or under such circumstances, and in such manner as shall be substantially similar thereto, with a sword or other offensive weapon, or otherwise, shall actually wound his or their women or children, or other women or children, or any or either of them, on account or in resentment of any real or supposed injury committed towards him or them, by any aumils, tehseeldars, or other officers or servants employed in the revenue or judicial departments, or shall so wound any of his or their own women or children, or any other woman or child, on account or in resentment of his or their differences with any individual, he or they shall, for such act or acts, be sentenced by the Sessions Court to transportation, subject to the same reference to the Nizamut Adawlut, and to the like commutation of the punishment, or pardon, as in the cases referred to in the preceding paragraph.—Reg. XXI., 1795, sec. viii.

10. If any Brahmin or Brahmins, under the circumstances, and in the manner above described, or under such circumstances and in such manner as shall be substantially similar thereto, with a sword or other offensive weapon, or otherwise, shall actually put to death his or their women or children, or other women or children, or any or either of them, on account or in resentment of any real or supposed injury committed towards him or them, by aumils, tehseeldars, or any other officers or servants employed in the revenue or judicial departments, or shall so put to death any of his or their own women and children, or any other woman or child, on account or in resentment of his or their differences with any individual, he or they shall be tried for such homicide, and on proof of the fact or facts, be accordingly sentenced by the Sessions Court to capital punishment, subject to the same reference to the Nizamut Adawlut, and to the like commutation of the punishment or pardon, as in the cases referred to in paragraph 8; and the families of any Brahmin or Brahmins found guilty of murder under this rule shall, according to the order of the Governor-General in Council under date the 17th of June, 1789, and the publication made in conformity to it by the Resident at Benares, under date the 7th of July of the same year, be banished from the province of Benares and the Company's territories, and his and their estates in land shall be forfeited and disposed of as to Government shall seem proper; and accordingly the Sessions Court is required to subjoin this order to all sentences that they may pass on Brahmins for murder under this rule, at the same time

reporting such sentence and order to the Nizamut Adawlut, together with as accurate an account as they may be able to procure, of the number, sex, and age of the persons composing the family of such Brahmin or Brahmins, and annexing their opinion how far it may be advisable, or otherwise, rigorously to enforce the banishment of the family of such Brahmin or Brahmins, or to confirm, or mitigate, or annul the order for the forfeiture of their real property; and the Nizamut Adawlut, on consideration of this sentence and order, and of the opinion of the Sessions Court, shall either wholly confirm, or grant such mitigation of the said sentence and order, as shall appear to them proper; and in all cases where the forfeiture of the landed property of such Brahmin or Brahmins, and that of his or their family, shall be confirmed by the Nizamut Adawlut, the said Court is to advise the Governor-General in Council thereof, nor shall such sentence be carried into execution, as far as regards the forfeiture of the landed property, without an order from the Governor-General in Council approving such part of the sentence, and directing in what manner the lands thus forfeited shall be disposed of.—Reg. XXI., 1795, sec. ix.; Reg. XIV., 1810, secs. ii., iii.

11. In the exercise of the discretion vested in the Nizamut Adawlut by the preceding paragraph of granting a mitigation of sentences and orders passed by the Sessions Court under the said paragraph, it shall be a rule, that whenever they shall deem it proper to limit the banishment either to the party or parties committing the murder, or to a certain number only of his or their family or families, no confiscation or forfeiture of the landed property shall in such instances take place, but the same shall be entirely left in the possession, and as the property, of those members of the family who shall be exempted from banishment.—Reg. XXI., 1795, sec. x.; Reg. XIV., 1810, secs. ii., iii.

12. In the month of December, 1789, the tribe of Raujekoomars having bound themselves to discontinue the practice of causing their female infants to be starved to death, it is now accordingly ordained, that from the establishment and opening of the City and Zillah Courts, and of the Sessions Court in Benares, if any Raujekoomar shall designedly prove the cause of the death of his female child, by prohibiting its receiving nourishment, as set forth in the preamble to this Regulation, or in any other manner, the magistrate, on receiving information thereof upon oath or affirmation, or such other information or proof as he shall deem sufficient to render the charge highly probable, shall cause such Raujekoomar to be apprehended in the manner prescribed, and make the inquiry ordered in Section V., Regulation IX., 1793 ("MAGISTRATES," paragraphs 27, 29, 31, and 38); when, if it shall appear to the magistrate that the crime has been actually committed, and that there are grounds for suspecting the prisoner to have been concerned in the perpetration of it, the magistrate shall cause him to be committed to prison to be tried before the Sessions Court, and shall at the same time take all the other precautions required in the section and Regulation last quoted, relative to securing the attendance of the original complainant or informant, and of the witnesses: and the prisoner shall be tried accordingly, in the manner directed in Regulation IX., 1793, and Regulation XVI., 1795, with respect to other cases of murder.—Reg. XXI., 1795, sec. xiii.

### *Execution of Brahmins.*

13. The exemption of Brahmins in the province of Benares from the legal punishment for murder, to which they, as well as all other persons, are subject in every other part of the country, being obviously repugnant to the principles of equal justice, such exemption of Brahmins convicted of murder from sentence of death is abrogated. The execution of a Brahmin shall not take place within the limits of any spot of ground held sacred by the Hindoos, and the magistrates are enjoined to execute all sentences of death against Brahmins, at some convenient place without such limits.—Reg. XVII., 1817, sec. xv.

### CONQUERED PROVINCES.

14. The Sessions Court shall be guided in its decisions and proceedings by the Regulations which have been enacted conformably to the rules prescribed in Regulation I., 1803, for the administration of justice in criminal cases in the provinces ceded to the English East-India Company by the Nawaub Vizier, or which shall be hereafter enacted, agreeably to the forms prescribed by the said Regulation, for the administration of justice in the territories aforesaid, ceded to the East-India Company by the Peishwa and Dowlut Rao Scindiah, or acquired by the British Government.—Reg. IX., 1804, sec. vi.

15. A magistrate shall be appointed in each of the zillahs in these territories, who shall exercise the powers now vested in the magistrates of the zillahs in the provinces ceded to the

English East-India Company by the Nawaub Vizier, under the Regulations passed and published conformably to the rules prescribed in Regulation I., 1803, or such other powers as may be hereafter vested, by any Regulation so passed and published, in the magistrates of the zillahs included in the territories ceded to the English East-India Company by the Peishwa and Dowlut Rao Scindiah, or acquired as aforesaid.—Reg. IX., 1804, sec. vii.

16. It shall be competent for the Governor-General in Council, by an order in council, to make any alteration in the limits of the zillahs in these territories, or to make any annexations to the said zillahs, or separations from them, which shall hereafter appear to him to be advisable, or to form any part of the territories aforesaid into additional zillahs.—Reg. IX., 1804, sec. viii.

CEDED AND CONQUERED PROVINCES.

17. Provision is made by Section XXIII., Regulation VIII., 1803 (paragraph 50, "JAILS AND PRISONERS"), for the punishment of guards in charge of convicts who may have escaped, and in certain cases for committing or holding such guards to bail for trial before the Sessions Court. This provision is extended to guards in charge of prisoners who may escape from their custody, whether before or after conviction; but shall not be considered applicable to military guards from the provincial battalions (while such battalions shall continue subject to military law), or from any regular corps of the army. Whenever it shall appear to a magistrate that a guard furnished by a provincial battalion, or by any regular corps of the army, has been guilty of wilful neglect in guarding the prisoners under his charge, or in conniving at the escape, or the attempt to escape, of any prisoner, or of any other act of a criminal nature in the discharge of his duty, the magistrate shall cause the offender to be delivered over to the officer commanding the provincial battalion or the detachment to which he may belong, with a charge in writing, that he may be tried and punished on conviction by a court-martial.—Reg. VIII., 1805, sec. xiv., cl. 5.

18. The mode of proceeding against military guards, directed in the preceding paragraph, shall be observed with respect to any other offence involving a breach of military duty, and properly cognizable by courts-martial; but shall not be held applicable to any criminal charge against such guards or other sepoys, whether belonging to the provincial battalions or regular corps of the army, which may not involve a breach of military duty, and the cognizance of which therefore appertains to the Civil Courts.—Reg. VIII., 1805, sec. xiv., cl. 6.

CUTTACK.

19. A magistrate shall be appointed in the zillah of Cuttack, who shall exercise the powers vested in the magistrates of the zillahs in the provinces of Bengal and Behar, and the part of the province of Orissa heretofore subject to the dominion of the British Government, under the Regulations passed for those provinces.—Reg. IV., 1804, sec. iv.

20. The Regulations enacted for the administration of justice in criminal cases, and for the guidance of the magistrates, in the provinces of Bengal and Behar, and in the part of the province of Orissa heretofore subject to the dominion of the British Government, shall be considered to extend to the zillah of Cuttack, unless it shall be otherwise specially directed in any Regulation so enacted.—Reg. IV., 1804, sec. v.

MERIAH SACRIFICES IN ORISSA.

21. It shall be lawful for the Governor-General in Council, by an order in Council, to remove from the jurisdiction and superintendence of the commissioner and superintendent of tributary mehauls in Cuttack, any of the tributary estates specified in Section II., Regulation II. of 1816, of the Bengal code, and to place any such estates under the jurisdiction and superintendence of such officer (to be called the agent for the suppression of Meriah sacrifices) and his subordinates, as shall from time to time be appointed by the Government of Bengal in that behalf.—Act XXI., 1845, sec. i.

22. It shall be lawful for the Governor-General in Council, by an order in council, to remove from the jurisdiction and superintendence of the agent to the Governor-General, South-West Frontier, any portion of the tracts of country comprised in that agency, and to place any such portion under the jurisdiction and superintendence of such officer (to be called the agent for the suppression of Meriah sacrifices) and his subordinates, as shall from time to time be appointed by the Governor of Bengal in that behalf.

23. All such agents and their subordinates as shall be appointed under this Act shall, in the exercise of their jurisdiction and superintendence, be guided by such instructions as they may from time to time receive from the Government of India through their respective Governments.

24. It shall be competent to the Governor-General in Council, through the Governments of the aforesaid presidencies respectively, to prescribe such rules as he may deem proper for the guidance of such agents and subordinates, and to determine to what extent the decision of the said agents in civil suits shall be final, and in what suits an appeal shall lie to the Sudder Court, and to define the authority to be exercised by the said agents in criminal trials, and what criminal cases they shall submit for the decision of the Sudder Court.

TRIAL OF OFFENCES COMMITTED AT CHANDERNAGORE.

25. The magistrate of Hooghly is hereby declared competent to receive into his custody natives of India who may be forwarded to him by the superior authorities of Chandernagore, charged with the commission of murder, robbery, and other crimes of a heinous nature within the limits of those settlements.—Reg. II., 1820, sec. ii., cl. 1.

26. After due examination into such cases, the magistrate will either discharge the prisoner, or if he shall find sufficient grounds for that measure, will commit the accused to take his trial before the Sessions Court for the offence for which he may stand charged.—Reg. II., 1820, sec. ii., cl. 2.

27. The magistrate will not himself pass sentence of punishment on the accused, although the nature of the charge may be such as would warrant his doing so under the existing Regulations; but will either commit the prisoner to take his trial before the Sessions Court, or will discharge him, according to the circumstances of the case.—Reg. II., 1820, sec. ii., cl. 3.

28. The Sessions Court for the division of Calcutta, and the Nizamut Adawlut, are hereby respectively empowered to take cognizance of such cases, and to pass such sentence upon the prisoners as may be conformable to the provisions of the Regulations which are now or may hereafter be in force within the province of Bengal.—Reg. II., 1820, sec. iii.

29. The foregoing provisions are hereby declared to be applicable to persons charged with having committed offences of the nature described in paragraph 25, in the interval between the restoration of the settlements of Chandernagore and the date of this Regulation.—Reg. II., 1820, sec. iv.

MOUNTAINEERS OF BHAUGULPORE.

30. The inhabitants of the hills in the district of Bhaugulpore shall be considered, to all intents and purposes, amenable to the jurisdiction of the Criminal Courts, and subject to the ordinary system of police, in like manner as the inhabitants of the other territories immediately dependent upon the presidency of Fort William: provided, however, that in all cases where it may be prescribed by the existing Regulations, that the Mahomedan law officer of the Court conducting a trial shall declare by a written futwa his opinion as to the guilt or innocence of a party under trial, or the law as applicable to the case, the provisions of the said Regulations shall not apply to any case in which a native of the hills of Bhaugulpore may be under trial; but in lieu of such law officer, a committee of hill manjees, not being less than three in number, shall sit as assessors on the trial, and declare their opinion thereon, according to the laws and customs of the hills, subject to the approval and confirmation of the sessions judge conducting the trial, in the manner provided by the existing rules in regard to the futwas of Mahomedan law officers: provided further, that in cases of the above nature referred to the Nizamut Adawlut, that Court shall pass sentence, or otherwise dispose of a trial so referred, according as to their judgment shall seem best, without referring the same to the law officers of the Court, and the concurring opinions of two judges of the Nizamut Adawlut shall suffice for the disposal of any such case, and for the issue of any sentence awarded thereon.—Reg. I., 1827, sec. ii., cl. 1.

31. The magistrate of the district shall keep a register of manjees eligible to the duty referred to in the preceding paragraph, and on each occasion of a sessions of jail delivery, when there may be individuals of the hill race for trial, he shall summon a certain number of manjees, not being less than twelve, to attend the sessions; and any three or more of these, selected by ballot or otherwise, as the judge of session may deem most proper and convenient, shall be competent to sit on the trial in the manner above described; provided, however, that any prisoner for trial shall be competent to challenge and object to any one, or to all of the three or more first chosen, and in that case a second set shall be similarly provided, who shall not be liable to challenge, except upon good ground shown to the satisfaction of the judge holding the trial.—Reg. II., 1827, sec. ii., cl. 2.

# CRIMINAL JUDICATURE.

## POLICE.

### TABLE OF ENACTMENTS.

| Original Regulation or Act. | Paras. in Consolidation. | REMARKS. |
|---|---|---|
| | | *Benares.* |
| 1795. XVII. ii. | 26 | First part superseded by sec. iv., Reg. XIV., 1807. |
| iii. | 27 | |
| iv. to ix. | | Rescinded. |
| x. | | Same as paragraph 203, "Police." |
| xi. to xiv. | | Rescinded. |
| xv. | | Same as sec. xvi., Reg. XXII., 1793. See paragraph 9, "Magistrates." |
| xvi. to xix. | | Rescinded. |
| xx. | | Same as paragraph 48, "Police." |
| xxi. | | Rescinded. |
| xxii. | | Unnecessary. |
| xxiii. | | Superseded by cl. 2, sec. xi., Reg. XIV., 1807. |
| xxiv. | | Superseded by cl. 1, sec. vii., Reg. XIV., 1807. |
| xxv. | 12 | |
| xxvi. | | Superseded by cls. 3 and 4, sec. viii., Reg. XIV., 1807. |
| xxvii. | 25 | Greater part superseded by cl. 5, sec. xi., Reg. XIV., 1807. |
| xxviii. | 24 | |
| xxix. } xxx. } | | Superseded by cls. 7 and 8, sec. xi., Reg. XIV., 1807. |
| xxxi. | | Superseded by paragraph 203 of "Police." |
| xxxii. | | Superseded by cl. 10, sec. xi., Reg. XIV., 1807. |
| xxxiii. | | Rescinded. |
| xxxiv. | | Superseded by the rescission of the section it extends. |
| xxxv. | | Superseded by cl. 12, sec. xi., Reg. XIV., 1807. |
| xxxvi. | | Superseded by cl. 5, sec. viii., Reg. XIV., 1807. |
| 1797. II. ii. | 28 | |
| iii. | 32 to 34 | |
| VIII. ii. | 29 | |
| iii. to v. | | Rescinded or superseded. |
| 1810. VIII. ii., iii. | | Superseded by Act XXIV., 1837. |
| iv. to vi. | | See paragraphs 14 to 16, "Police." |
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| 2. | 28 | |
| 3, 4, 5. | 32 to 34 | Same as sec. iii., Reg. II., 1797. |
| iv. to ix. | | Rescinded by Reg. XIV., 1807; and Reg. XX., 1817. |
| x. | | Same as paragraph 203, "Police." |
| xi. to xv. | | Rescinded by Reg. XX., 1817. |
| xvi. | | Same as sec. xvi., Reg. XXII., 1793. See paragraph 9, "Magistrates. |
| xvii. to xx. | | Rescinded by Reg. XX., 1817. |
| xxi. | | Same as paragraph 48, "Police." |
| xxii., xxiii. | | Rescinded by sec. iii., Reg. XIV., 1807. |
| xxiv. | | Superseded by Act XXIV., 1837. |
| xxv. | | Rescinded by Reg. XX., 1817. |

| Original Regulation or Act. | Paras. in Consolidation. | REMARKS. |
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| 1803. XXXV. xxvi. | | Superseded. |
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| 1805. VIII. xiv. 8. | 35 | |
| XIII. ii., iii. | | Unnecessary. |
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| xii. | | Unnecessary. |
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| 3. | | Superseded by paragraph 32, "Police." |
| 4, 5. | 10, 11 | |
| 6. | | Superseded by paragraph 32, "Police." |
| ix. | | Rescinded by sec. ii., Reg. XX., 1817. |
| x. | | Unnecessary. |
| xi. 1. | | Unnecessary. |
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| xii. | | Rescinded by sec. ii., Reg. XX, 1817. |
| xiii. | | Rescinded by sec. xiv., Reg. XVI., 1810. |
| xiv. | | Unnecessary: of temporary operation. |
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| xviii. | | Extinct. |
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| viii. | | Paragraph 32, "Police." |

# CRIMINAL JUDICATURE.

## POLICE

### NORTH WESTERN PROVINCES

*Jurisdiction*

1 The charge of the police of the country, throughout the whole of the North-Western Provinces, shall be vested, subject to the control of the zillah and city magistrates, or superintendents of police, in the officers who may be appointed to the superintendence of it on the part of Government, and subordinately to them in the landholders and farmers of land, who by their engagements are responsible for the preservation of the peace within the limits of their respective estates and farms —Reg XIV, 1807, sec iv

2 The several zillahs in the North-Western Provinces, together with the mehauls under the magistrate of the city of Benares, shall be divided into compact police jurisdictions, including, indiscriminately, the estates of huzoor tehseel landholders, and of mehauls paying revenue through a tehseeldar, as well as la-khiraj lands of every denomination held exempt from the public assessment —Reg XIV, 1807, sec v, cl 1

3 The police jurisdictions shall be of two descriptions First, such as are established at the station where the Zillah or City Court is held, and which shall be denominated the "Sudder police jurisdiction," Secondly, such as are established at any place not being the station where the Zillah or City Court is held, and which shall be denominated the "Mofussil police jurisdiction"—Reg XIV., 1807, sec v, cl 2

4 The Sudder police jurisdictions shall comprise the city or town at which the Zillah or City Court is held, together with such part of the suburbs and environs as it may be judged expedient to place under the superintendence of a cutwal, with an establishment of darogahs, jemadars, burkundazes, and chokeedars, or other watchmen, proportionate to the extent and population of the jurisdiction —Reg XIV, 1807, sec vi, cl 1

5 The Mofussil police jurisdictions shall respectively comprise a considerable town or gunge at which the superintendent of the jurisdiction shall be stationed, together with such part of the adjacent country as it may be deemed advisable to place under the superintendence of a darogah, with an establishment of jemadars, burkundazes, and chokeedars or other watchmen, proportionate to the extent and population of each jurisdiction —Reg XIV., 1807, sec vi, cl. 2

6. In proposing a distribution of Mofussil police jurisdictions and the requisite establishments for them, the magistrates are to attend as much to the population and number of towns, villages, and other inhabited places, as to the extent of country but the latter shall, in no instance, exceed ten coss square for any one police jurisdiction, unless peculiar local circumstances shall appear to require it, in which cases they are to be reported, through the Court of Nizamut Adawlut, for the consideration of Government —Reg XIV, 1807, sec vi, cl 3

7 If the principal town or gunge included in any mofussil police jurisdiction shall from its extent and population, appear to require a cutwalee establishment, or if it appear expedient in any instance to include more than one considerable town or gunge within a mofussil police jurisdiction, and to station a naib darogah or a jemadar, with a subordinate establishment of burkundazes, chokeedars, or other watchmen, at the town or gunge which may not be the station of the darogah of the jurisdiction, the magistrates shall propose such arrangement, through the Court of Nizamut Adawlut, for the orders of the Governor-General in Council —Reg XIV, 1807, sec vii, cl. 1

8 The police jurisdictions of the several zillahs, as well as those under the magistrate of the city of Benares, shall be numbered, and named after the places at which the superintending officers are stationed The magistrate shall, as soon as possible after the receipt of this Regulation, submit a statement of police jurisdictions formed according to the provisions of it, together with a statement of the requisite police establishments for each jurisdiction through the Sessions Courts, to the Court of Nizamut Adawlut, and after obtaining the approbation of the Governor-General in Council thereto, the names, numbers, limits, or establishments of the several

jurisdictions shall not be changed without the previous sanction of Government.—Reg. XIV., 1807, sec. vii., cl. 1.

9. Provided that it shall be at all times competent to the Governor-General in Council to order the discontinuance of any police jurisdiction or establishment which may appear to him unnecessary, or any alteration therein which he may deem expedient.—Reg. XIV., 1807, sec. vii., cl. 2.

NOTE.—The rules in the above paragraphs are subject to the modifications and additions enacted in Regulations XVII., 1816, and XX., 1817, which will be found among the General Police rules, paragraphs 55 to 59.

10. Every cutwal and police darogah, previously to entering upon the execution of the duties of his office, shall subscribe the following declaration before the magistrate, or before such person as he may commission to receive it:

"I ——, appointed Cutwal of the city (or town) of ——, (or Darogah of the ward or police jurisdiction of ——), solemnly declare, that I will execute the duties of that office to the best of my abilities, with diligence, impartiality, and integrity, according to the Regulations enacted, or which may be hereafter enacted for my guidance; that I will not, directly or indirectly, receive, or knowingly allow any other person to receive, any fee, reward, or emolument whatsoever, on account of any matter relating to the exercise of my functions as cutwal (or darogah), and that I will, in all respects, faithfully discharge the trust reposed in me."—Reg. XIV., 1807, sec. viii., cl. 4.

11. On the nomination of a person to the office of cutwal or police darogah being approved, such person shall receive a sunnud, under the official seal and signature of the magistrate, in the Persian language, and to the following effect:—

"Be it known to ——, inhabitant of ——, in virtue of the powers vested in me by Regulation XIV., 1807, I hereby appoint you Cutwal of the city (or town) of ——, (or Darogah of the ward or police jurisdiction of ——), within the limits specified at the foot of this sunnud. You are accordingly authorized and directed to perform the duties of the said office in conformity with the provisions of that Regulation, or of any other Regulation in force, which has been or may be enacted by the Honourable the Governor-General in Council, and which shall have been printed and published in the prescribed form. You are further required to obey all orders consistent with the Regulations, which may be issued to you by the magistrate of the zillah (or city) in which you are employed; and are to discharge the trust reposed in you faithfully and diligently, until this sunnud shall be recalled, when it is to be delivered back to the office of the magistrate. Herein fail not. Dated ——, A. C., corresponding with——."—Reg. XIV., 1807, sec. viii., cl. 5.

SUDDER POLICE JURISDICTIONS.

12. No person shall be appointed cutwal of the cities of Benares, Allahabad, Agra, Furruckabad, or Bareilly, unless he shall have given security for his appearance in the sum of five thousand rupees; viz., himself in two thousand five hundred, and two responsible persons in one thousand two hundred and fifty each. The cutwals appointed to the town of Juanpoor or any other stations shall previously give security for their appearance in the sum of two thousand five hundred rupees; namely, the cutwal himself in one thousand two hundred and fifty rupees, and two responsible persons in an equal amount.—Reg. XVII., 1795, sec. xxv.; Reg. XIV., 1807, sec. viii., cl. 2.

13. The city or town constituting, with its suburbs, the sudder police jurisdiction, shall be divided into wards; each ward to be guarded by a police darogah, with a jemadar, and an establishment of burkundazes, chokeedars, or other watchmen. The several darogahs to be under the superintendence of a cutwal, and the whole under the immediate control of the magistrate.—Reg. XIV., 1807, sec. xi., cl. 2.

14. The chokeedars and other watchmen are to be stationed by the cutwal as the magistrate may direct; and are particularly to watch the entrances of streets and passages, places where spirituous liquors are sold, and any places where numbers of people occasionally assemble, or where, from any circumstances, there may be reason for special vigilance, to prevent a breach of the peace or apprehend the persons by whom it may be broken.—Reg. XIV., 1807, sec. xi., cl. 3.

15. The jemadars of the several wards, with half of the establishment of burkundazes, and the darogahs with the other half of their establishments, shall patrol their respective wards without intermission; and the one from sun-set until twelve o'clock at night, the other from twelve o'clock at night until day-light. The patrols are to move about with as little noise as possible, that thieves and other disorderly persons may not be apprized of their approach. The patrols of the several wards, and such part of the stationary watchmen as the cutwal shall appoint, are to be furnished with a singhara or horn, which they are to sound when they meet with robbers or other persons guilty of a breach of the peace, and have occasion to give the alarm to each other or to the

inhabitants of the ward, that they may co-operate for the apprehension of the offenders. The cutwal is to be careful that the stationary watchmen, and the darogahs and their officers, perform the essential duties prescribed in this rule regularly and properly; and to report to the magistrate every instance in which they may be guilty of negligence or misconduct in the discharge of them.—Reg. XIV., 1807, sec. xi., cl. 4.

16. To assist the darogahs in obtaining the earliest intelligence of any robbers or other offenders who may be concealed or have taken up their residence within their respective wards, the mohulladar and mohulladarin of each ward shall be subject to the orders of the darogah, to whom they shall convey immediate information of any offenders who may be found in their respective wards. It shall also be the duty of the bhutiarehs, or other persons in charge of the public serays, and of the ghaut manjees, to deliver in to the cutwal's office, or to the darogah of the ward, daily reports of the arrival and departure of travellers and of all persons of suspicious appearance.—Reg. XIV., 1807, sec. xi., cl. 5.

17. All private watchmen entertained by individuals for guarding their houses, shops, or other premises within the cutwalee jurisdiction, are required to act in concert with the officers of police in maintaining the peace; and are declared subject to the orders of the cutwal and of the darogahs of their respective wards, in all matters relative to the police. If such watchmen be found deficient in performing the duties required from them, they shall be dismissed at the requisition of the magistrate, who is also empowered to see that none but proper persons are appointed in their stead.—Reg. XIV., 1807, sec. xi., cl. 6.

18. It shall be the duty of the cutwals and of the darogahs of wards to apprehend all murderers, robbers, house-breakers, thieves, pick-pockets, and persons charged with or suspected of crimes or misdemeanors involving a breach of the peace; as well as all vagrants who may be lurking about their respective jurisdictions without any ostensible means of subsistence, and who cannot give a satisfactory account of themselves. All such persons who may be apprehended by the darogahs between sun-rise and sun-set shall be conveyed to the cutwal's office immediately on their apprehension. If any such persons shall be apprehended between sun-set and sun-rise, they shall be conveyed to the cutwal's office early in the morning after the night on which they may have been apprehended. The cutwal shall every forenoon, by eleven o'clock, take before the magistrate all persons who may have been apprehended by him or by the darogahs during the night, or subsequently to his report on the preceding day. The cutwal and darogahs are prohibited detaining in custody any persons whom they may have apprehended beyond the time specified, without a special order from the magistrate.—Reg. XIV., 1807, sec. xi., cl. 7.

19. The cutwal and darogahs shall not dismiss any persons whom they may have apprehended without authority from the magistrate for their release; excepting persons who may have been apprehended for petty offences of a bailable nature, and who shall tender sufficient bail for appearance before the magistrate at the time prescribed; or persons charged with trivial offences, such as abusive language, slight trespasses, and inconsiderable assaults or affrays, whom the cutwal and darogahs are permitted to discharge, if previously to the time prescribed for carrying them before the magistrate the complainants shall voluntarily deliver a razeenamah, or writing, desiring to withdraw the complaint, and the defendants shall consent to the complaint being withdrawn. The razeenamahs, in such cases, shall be attested by two creditable witnesses, and are to be transmitted by the darogahs, as well as all bail-bonds and recognizances, on the morning following the night or day on which they may have been executed, to the cutwal, who shall submit them to the magistrate the same morning on which he may have received them, together with any such writings relating to similar cases that may have been entered into before himself.—Reg. XIV., 1807, sec. xi., cl. 8.

20. In receiving written complaints, issuing process of summons or warrant, taking bail when tendered in cases of a bailable nature, and taking recognizances from prosecutors and witnesses, when requisite, the cutwal and darogahs of wards are to be guided by the rules enacted for the guidance of the police-officers in general, in Sections XII., XIII., XIV., and XV., Regulation XX., 1817. They are also to observe the restriction contained in Section XII. of that Regulation ("POLICE," paragraphs 112 to 114), that no summons or other process shall be issued by any police-officer without special instructions from the magistrate, on any charge of adultery, fornication, calumny, or other offence, not involving a breach of the peace.—Reg. XIV., 1807, sec. xi., cl. 9.

21. The duty of the cutwal and darogahs of wards, with regard to persons charged with, or found in the act of committing crimes or misdemeanors, is restricted in the first instance to apprehending them and bringing them before the magistrate, either in custody or under bail, as prescribed. They are not to make any inquiry into the truth of charges preferred to them, without special instructions from the magistrates; nor are they, in any case, to pass sentence, or impose a fine, or make any exaction, or inflict any punishment upon any person whatever.—Reg. XIV., 1807, sec. xi., cl. 10.

22. The restriction in the preceding paragraph is not meant to prohibit the cutwal and police darogahs from taking inquests in cases of murder or other unnatural death, as prescribed by Section XIV., Regulation XX., 1817 ("POLICE," paragraphs 125 to 136), nor to prohibit their making the local inquiry directed in Section XV., Regulation XX., 1817 ("POLICE," paragraphs 137 to 144), on information being received of a recent robbery or other violent crime within their respective jurisdictions; nor to prevent their taking the voluntary confession of persons apprehended by them, in the manner authorized by Section XIX., Regulation XX., 1817 ("POLICE," paragraphs 171 to 187). But no person shall be detained in custody by them, for any of the purposes stated, without being taken before the magistrate, as required by paragraph 18.—Reg. XIV., 1807, sec. xi., cl. 11.

23. The cutwals and darogahs, and all officers under their authority, shall be liable to a criminal prosecution before the magistrate and Sessions Court, or to a civil action in the Dewanny Adawlut, for corruption, extortion, or oppression, and for all acts done by them in opposition to this Regulation, or to the provisions of any other Regulation in force.—Reg. XIV., 1807, sec. xi., cl. 12.

24. In the city of Benares there are sundry inhabited closes, or courts, with only single entrances, provided with phatucks or gateways, guarded by watchmen entertained and paid by the persons residing therein. These watchmen are to make daily reports to the darogah of their respective wards of such occurrences in the said places as may fall under the cognizance of the police; and if such watchmen be found inefficient by the magistrate, he is to appoint others in their stead; and he is to see that the inhabitants of such closes or courts pay to the watchmen the accustomed wages. The rules in this paragraph are extended to all similar closes or courts in the towns of Mirzapoor and Juanpoor.—Reg. XVII., 1795, sec. xxviii.

25. The dowms stationed at the ghauts of the city of Benares are to report on, and to receive the magistrate's sanction, before they proceed to burn the bodies of any Hindoos dying other than a natural death.—Reg. XVII., 1795, sec. xxvii.

26. The guard of the Deccan road to Mirzapoor is intrusted to certain persons paid from the custom-house establishment, who are responsible for all losses by theft or robbery committed within their limits, according to the engagements which they have executed.—Reg. XVII., 1795, sec. ii.

### RESPONSIBILITIES OF LANDHOLDERS.

27. Landholders and farmers of land are to be considered responsible for robberies or thefts committed in their respective limits, estates, or farms; it being understood, however, that for night robberies in the open roads or woods, the landholders or farmers are not to be held responsible, unless it shall be proved that they had such knowledge of the circumstances as might reasonably have been expected to have enabled them to have prevented the theft or robbery; but that for thefts or robberies in inhabited places they are to be considered as liable to be made responsible, whether notice of the arrival of the owners of the property shall have been given to them or not, if, under the circumstances of the case, the magistrate shall be of opinion that the theft or robbery was committed with their connivance, or that the perpetration of it was ascribable to their want of care or vigilance.—Reg. XVII., 1795, sec. iii.; Reg. XXXV., 1803, sec. iii., cl. 1; Reg. XIV., 1807, sec. xix., cl. 1.

28. The landholders and farmers of land who, by the preceding paragraph, are intrusted with the police of their respective estates and farms, are required, with the assistance of their pykes, chokeedars, pausbauns, and other descriptions of village watchmen, to give at all times their utmost care and vigilance to prevent affrays, assaults, and all other acts of violence and breaches of the peace within their respective estates and farms, as well as to apprehend and deliver over to the police-officers any persons who may be found in the act of committing a breach of the peace, or whom the police-officers may require their aid to apprehend in execution of the duties vested in them.—Reg. II., 1797, sec. ii.; Reg. XIV., 1807, sec. xx.

29. All prosecutions instituted under paragraph 27, to recover losses sustained by theft and robbery shall be filed and decided in the Dewanny Courts, subject to all the rules provided by the existing Regulations for other civil suits cognizable in the said Courts.—Reg. VIII., 1797, sec. ii.

30. The landholders and farmers are further hereby declared responsible for the value of any stolen or plundered property proved to have been brought into their estates or farms with their knowledge or connivance, and which they may not have caused to be delivered up, or have given timely information respecting it to the local police-officer or to the magistrate.—Reg. XIV., 1807, sec. xix., cl. 2.

31. All claims upon the landholders and farmers for the value of stolen or plundered property under the preceding rule are to be instituted, tried, and decided in the Civil Courts, subject to the general rules of appeal.—Reg. XIV., 1807, sec. xix., cl. 3.

32. Any landholder or farmer of land who may be convicted of wilful neglect in the instances above referred to, and particularly of neglect to afford his ready and utmost assistance on the requisition of a police officer in apprehending persons within his estate or farm who may have committed, or be charged with having committed, a breach of the peace, is declared liable to the forfeiture of his estate or farm, or to such fine to Government as may be judged adequate to the circumstances of the case, and is to be proceeded against in the following manner.—Reg. II., 1797, sec. iii., cl. 1.

33. The charge of wilful neglect in the instances aforesaid is to be received and examined into by the magistrate, in the mode prescribed by the Regulations with respect to other charges of a criminal nature; and after hearing the defence of the party accused, with the evidence adduced against him in his behalf, if the magistrate shall be of opinion that the charge is not established, he is to pass judgment of acquittal, with damages to the party if the complaint shall appear to have been groundless and litigious. If the magistrate shall consider the charge established, he is to record his opinion to this effect, with the punishment he may judge adequate to the case, whether a fine (the amount of which to be specified) or a forfeiture of the offender's estate or farm (the annual jumma of which is to be in that case specified), and to transmit without delay a copy and translation of his proceedings to the Court of Nizamut Adawlut.—Reg. II., 1797, sec. iii., cl. 2.

34. The Nizamut Adawlut, on receipt of the magistrate's proceedings, are to pass such order thereupon as they may think proper, on due consideration of the evidence and all the circumstances of the case; and in all instances wherein they may order a fine to Government, their judgment is to be considered final, and immediately carried into execution by the magistrate, in the same manner as other fines are levied under the existing Regulations. But in case the Nizamut Adawlut shall adjudge a forfeiture of the offender's land or lease, they are, previous to ordering such judgment to be carried into execution, to transmit their proceedings, with those of the magistrate, to the Governor-General in Council, who will finally determine whether the judgment of forfeiture shall be put in force, or commuted to a fine, or otherwise; and who, whenever he may order the land or lease of the offender to be forfeited to Government, will at the same time cause the necessary instructions for the future disposal of the land to be conveyed to the collector through the Board of Revenue.—Reg. II., 1797, sec. iii., cl. 3.

35. The above provision shall be considered to extend to landholders or farmers of land who shall be convicted of having themselves been concerned, directly or indirectly, in any theft or robbery committed within their respective estates or farms, or of having been aiding or abetting therein, or privy to the same. Such landholders and farmers shall be liable to be proceeded against in the manner prescribed by the foregoing rules, subject to the penalties prescribed therein. —Reg. VIII., 1805, sec. xiv., cl. 8.

NOTE.—The preceding rule is of force only in the Ceded and Conquered Provinces, and not in Benares.

36. The huzoor tehseel landholders being exonerated from keeping up any police establishments, excepting such as they were bound to keep when under tehseeldars, for the maintenance of the peace within their respective estates, they will not be entitled to any part of the allowance formerly made to the tehseeldars on that account on their becoming huzoory.—Reg. XIV., 1807, sec. xv.

37. The foregoing provisions shall also be considered equally applicable to all officers of Government intrusted with or employed in the collection of the public revenue, or the rents of estates held khas or under attachment; it being the duty of every public officer to render any assistance in his power for the support of the police and the prevention of crimes, or the apprehension of persons by whom they are committed, especially when called upon to aid the established officers of police.—Reg. XIV., 1807, sec. xxi.

CONQUERED PROVINCES.

38. The magistrates shall have the charge of the police of the country; and shall station darogahs of police in those parts of their respective zillahs, in which the aid of such officers shall be necessary for the maintenance of the peace of the country, in the same manner as the magistrates in the provinces ceded to the English East-India Company by the Nawaub Vizier are empowered to nominate darogahs of police within their respective zillahs. The magistrates shall be guided by the Regulations now in force, regarding the police in the provinces ceded to the English East-India Company by the Nawaub Vizier, or such other Regulations applicable to their respective zillahs as may be hereafter enacted. Provided, however, that this Regulation shall not be construed to exonerate the zemindars, farmers, or other holders of lands in the said zillahs, from the duties and responsibility imposed on them by the terms of their existing engagements,

or by the ancient and established usages of the country, which may not have been superseded by such engagements, or by an order of a competent authority, for the prevention of robberies and other disorders, and for the maintenance of peace and good order within their respective limits. Such zemindars, farmers, and other holders of lands, shall continue to perform such duties, and be liable to such responsibility, notwithstanding any thing which may be said to the contrary in any Regulation enacted previously to the date of this Regulation.—Reg. IX., 1804, sec. ix.

CUTTACK.

39. The magistrates shall have the charge of the police of the country; they shall station darogahs of police in those parts of the country in which the aid of such officers shall be necessary for the maintenance of the peace of the country; and all the Regulations now in force, or which shall be hereafter enacted, regarding the police in the provinces of Bengal and Behar, and in that part of the province of Orissa heretofore under the dominion of the British Government, shall be considered to extend to the province of Cuttack, unless it shall be otherwise specially directed by any Regulation. Provided, however, that this Regulation shall not be construed to exonerate the zemindars, farmers, or other holders of lands in the zillah of Cuttack, from the duties and responsibility imposed on them by the terms of their respective tenures or engagements and the usages of the country, for the prevention of robberies and other disorders, and for the maintenance of peace and good order within their respective limits. Such zemindars, farmers, and other holders of land, shall continue to perform such duties, subject to the same responsibility as heretofore, notwithstanding any thing that may be said to the contrary in any Regulation enacted previously to the date of this Regulation.—Reg. IV., 1804, sec. vi.

40. The following rules shall be observed in the appointment of darogahs for the maintenance of the police in the zillah of Cuttack, and in the pergunnahs of Puttaspore, Kummardichour, and Bograe.—Reg. XIII., 1805, sec. iv., cl. 1.

41. In cases in which the zemindars, talookdars, and other landholders, have not been formally divested of the charge of the police within the limits of their respective estates, for misconduct or any other reason, either by the late Mahratta Government or by the Board of Commissioners for the settlement of the affairs of Cuttack, such zemindars, talookdars, and other landholders, shall continue, under the responsibility stated in paragraph 39, in charge of the police, according to established usage, within their respective estates; that is, the principal zemindars, talookdars, and other landholders, being proprietors of large estates, shall be constituted darogahs of police within the limits of their respective possessions; and the inferior zemindars, talookdars, and other landholders, being proprietors of petty estates, shall be considered to be subordinate officers of police, subject to the above-mentioned responsibility, under the immediate authority of darogahs, who shall be selected and appointed for the maintenance of the police in estates or mohauls of the latter description.—Reg. XIII., 1805, sec. iv., cl. 2.

42. In cases in which any of the zemindars, talookdars, and other landholders, have been divested of the charge of the police (as above noticed) within the limits of their respective estates, one, two, or more kandytes or sirdar pykes, according to the extent of such estates, shall, in conformity to established usage, be vested with the immediate maintenance of the peace, the apprehension of public offenders, and other duties of that description, within the limits of the said estates; subject, nevertheless, to the control of darogahs, who shall be appointed for the superintendence of the police and the general control of the conduct of the said kandytes and all inferior officers of police, within the limits of the authority of the said darogahs respectively.—Reg. XIII., 1805, sec. iv., cl. 3.

43. The darogahs who may be appointed under paragraphs 41, 42, shall receive such salaries as the Governor-General in Council may think proper to fix for their support, on a consideration of the labour and responsibility of the offices held by them.—Reg. XIII., 1805, sec. iv., cl. 4.

44. Certain lands having been assigned by the authority of the late Government for the maintenance of the said sirdar pykes and inferior pykes, under the control of such sirdars, for the support of the general police of the country, those lands shall be continued to the said sirdar and other pykes for the purposes to which they have been hitherto appropriated. It is to be understood, however, that all officers of that description shall be considered subject to the authority of the darogahs of police, whether zemindars or others, within their respective limits, and shall be bound to conform to all legal orders which may be issued to them by such darogahs, conformably to the powers with which the darogahs may be invested. It is further to be understood, that any sirdar or other pyke will be liable to be dispossessed of his lands for any disobedience of orders, neglect of duty, undue violence, or other misconduct; provided, however, that whenever a magistrate shall be of opinion that any kandyte or sirdar pyke ought to be dismissed from his office, or whenever the place of such officer shall

become vacant from death or any other cause, the magistrate shall report the circumstances of the case to the Nizamut Adawlut, who will pass such orders on the subject as shall appear to them to be proper, under the general powers vested in them by Regulation V., 1804; provided, likewise, that whenever any vacancy shall occur among the inferior pykes, either from dismissal, death, or otherwise, the places of such pykes shall be supplied by the sirdar pyke, on declaring himself to the magistrate responsible for the conduct of the person recommended by him.—Reg. XIII., 1825, sec. v.

45. It shall be the duty of the darogahs of police, whether zemindars or others, under the guidance and instructions of the magistrates, to form a complete register of the sirdar and other pykes within the limits of the authority of the said darogahs respectively.—Reg. XIII., 1805, sec. vi.

46. It shall be the duty of the darogahs of police to ascertain and fix, under the orders of the magistrates, the limits of the local authority of the kandytes or sirdar pykes, and of the inferior officers of police attached to the said sirdars, so that every part of the province of Cuttack, whether consisting of lands paying revenue to Government or of lands exempt from the payment of revenue, may receive the protection of the subordinate officers of police, under the directions of the darogahs and the general control of the magistrates.—Reg. XIII., 1805, sec. vii.

47. Nothing contained in this Regulation shall be construed to exempt the zemindars, talookdars, farmers, and other holders of land, although they be not formally constituted officers of police, from the duty of affording every assistance in the prevention of breaches of the peace and in the apprehension of public offenders, who are immediately to be delivered into the custody of the nearest officers of police.—Reg. XIII., 1805, sec. viii.

48. Any zemindar, talookdar, or holder of land exempt from revenue, who may be suspected of conniving at any robbery or other public offence, will be liable to be prosecuted before the Criminal Courts of the country, and punished on conviction, under the general laws and regulations of the country.—Reg. XIII., 1805, sec. ix.

49. It shall be the duty of the collectors of Cuttack and Midnapore to form a complete register of the lands assigned for the support of the sirdar and other pykes, specifying the quit-rent payable to the zemindars, talookdars, and other landholders (if, according to established usage, the lands have been hitherto subject to the payment of such quit-rent), and to transmit a copy of the register required to the Board of Revenue, to be deposited among the records of that board.—Reg. XIII., 1805, sec. x.

50. The foregoing rules regarding the sirdar and other pykes, and the lands assigned for their support, are not to be considered applicable to certain doosauds, or village watchmen, entertained by the zemindars, talookdars, and other landholders, for the purpose of watching crops, guarding granaries, and other duties of that nature; which officers shall be left under the exclusive control of the zemindars, talookdars, and other landholders, as heretofore.—Reg. XIII., 1805, sec. xi.

51. All laws and regulations for the maintenance of the police, and for the administration of justice in criminal cases, in the province of Bengal, which have been or shall be enacted, and which shall not be inconsistent with or repugnant to the provisions contained in this Regulation; and likewise such of the rules contained in Regulation IV., 1804, as are not either specifically or virtually rescinded by the present Regulation, shall have full force and effect in the zillah of Cuttack, and in the pergunnahs of Puttaspore, Kummardichour, and Bograe, included in the zillah of Midnapore; provided, however, that no part of this Regulation shall be construed for the present to extend to the estates of certain hill or jungle rajahs or zemindars, of which the following is a list:

| | | |
|---|---|---|
| Killah Neelgery, | Killah Toalcherry, | Killah Rampore, |
| Ditto Bankey, | Ditto Attgurh, | Ditto Hindole. |
| Ditto Joorinoo, | Ditto Kunjur, | Ditto Teegereah, |
| Ditto Nirsingpore, | Ditto Kindeapara, | Ditto Burrumboh, |
| Ditto Augole, | Ditto Neahgurh, | The territory of Mohurbunge. |

—Reg. XIII., 1805, sec. xiii.

NATIVE POLICE.

*Rules regarding Tehsildary Police in the Ceded and Conquered Provinces.*

52. It shall be competent to the Governor-General in Council, by an order in council, to authorize any tehsildar or tehsildars to exercise the powers vested by the existing Regulations in darogahs of police, and to determine the local limits of their police jurisdictions, within which all officers of police, including the present thannah and village police establishments, shall be subordinate to, and subject to the control of, the tehsildar, in his capacity of chief police thannahdar. —Reg. XI., 1831, sec. ii.

53. Wherever the above arrangement may have effect, the individuals at present filling the office of darogah shall be designated Naib Darogah, and they shall be guided in every respect by the rules laid down in Section VI., Regulation XX.; 1817 (POLICE, paragraphs 56 to 59), the present thannahs being considered as outposts, and the powers and duties of the police-officers employed at outposts, as defined in the section above quoted, shall be held applicable to such naib darogahs.—Reg. XI., 1831, sec. iii.

54. In modification of Section IV., Regulation XX., 1817 (POLICE, paragraphs 49 to 52), it is hereby declared competent to the darogah and tehsildar, with the sanction of the magistrate, to make such disposition of the existing police establishments as may be most conducive to the public interests; but with this exception, the whole of the rules contained in the above Regulation shall be held applicable to the tehsildars who may be constituted police-officers under this Regulation.—Reg. XI., 1831, sec. iv.

55. The tehsildars who may be vested with the powers of darogahs under this Regulation are authorized to employ, when necessary, in aid of the regular police establishments, any chuprassies or other persons entertained on their fixed tehsildary establishments; and revenue officers, when so employed, shall be guided in the discharge of their police duties by all the rules now in force, or which may hereafter be enacted for the guidance of the police-officers. But the fixed thannah establishments shall not be employed in the collection of the land revenues, or in other revenue duties, except in cases of distraint for arrears of rent or revenue, or such other occasions as by the Regulations in force is now authorized.—Reg. XI., 1831, sec. v.

56. Whenever the Governor-General in Council shall see fit to carry into effect the arrangement herein authorized in any district or part of a district, a statement shall be drawn out, specifying the number and extent of the several police and revenue jurisdictions, the names and numbers of the officers attached to them, and the head-quarters or thannahs, and the outposts of the several divisions: this statement shall be drawn out in English, Persian, and the vernacular dialects, and suspended in a conspicuous place in the cutcherry of the collector and magistrate at the sudder station, and shall be published by proclamation throughout the district.—Reg. XI., 1831, sec. vi.

57. In any district in which the provisions of this Regulation may be carried into effect, it shall be the duty of the magistrate and collector to report to the Governor-General in Council, from time to time, any reductions which can be effected in the existing police establishments; and on the occurrence of any vacancy in the office of naib darogah, such office shall not be filled up, but its duties shall devolve on the jemadar of the outposts, or such other subordinate officer as may be deemed by the magistrate and collector competent thereto, whether belonging to the establishment of the tehsildar or to the original police establishment.—Reg. XI., 1831, sec. vii.

# PREFATORY NOTE

## TO THE SECTION "CIVIL AND CRIMINAL JUDICATURE."

THE title of this Section will not fully describe its mixed character, but this division of the work has been thus designated because it is chiefly supplemental to the two separate Sections of "Civil Judicature," and "Criminal Judicature." Some of the enactments which it consolidates include rules partially affecting the revenue department and its administration; but the whole are so essentially united in their provisions and operation that they do not admit of complete subdivision, and for these combined rules no place seemed so fit as the present Section. This will be endeavoured to be shown in noticing them in their order.

The first and most important division is that which contains the rules establishing and defining the powers and duties of the highest tribunal exercising a joint and supreme control over the other courts, civil and criminal.

Next follow the rules respecting the service of and resistance to process, which, like those which relate to the powers of the Sudder Court, are, in the code, often so framed as to refer conjointly to civil and criminal authorities, though sometimes limited in their scope to one or the other.

Some miscellaneous rules affecting the routine of the courts and their officers follow in succession; and these seemed naturally to lead to a topic of considerable extent and importance, the appointment and removal of Public Officers, the earlier rules on which are involved in some complexity; it may fairly be doubted whether many ought not rather to have been rules of official direction, than of legislative enactment. Closely connected with these are the rules which define the responsibilities of Public Officers having custody of public property, and the course of procedure for malversation and breaches of trust. The persons affected by all these rules are officers, not only of the courts of Judicature, but of other departments also; but beyond the partial classification which will be found to have been made, the severation of the rules seemed unadvisable and inconvenient, in some points impracticable.

The next topic on which the enactments are included in this Section, is that of the form and authority assigned to the laws framed under the provisions of Regulation XLI, 1793. Although the rules under which those laws were made have been superseded by the system now in operation, they are retained as a guide to the construction of those numerous and important laws, and generally to the mode of dealing with them. These rules, of course, embrace other authorities besides the judicial.

In sequence to the foregoing rules of general application, the appendix of enactments of local operation contains, first, some special rules relative to the penalties for resistance to process, as applicable to the condition of the holders of land in Benares. These seemed to be the only provincial regulations under this head which so far differed from those of the Lower Provinces as to need insertion. Where the variations are merely verbal, involving no difference in operation, the collection has not been encumbered with their repetition.

The Local Appendix to this Section seemed the proper place to insert the establishment of the several Zillah Courts, which are accordingly there enumerated. The future retention, creation, and abolition of such courts is now in the power of the Governor-General, by Order in Council. The collection concludes by an arrangement of special enactments regarding the operation of the laws as generally or partially extended to particular tracts of territory.

# CIVIL AND CRIMINAL JUDICATURE.

## TABLE OF ENACTMENTS.

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| 1793. IV. xiii. | 64 | Only the first part is retained |
| xx. | 65 | Additions from Act XXIX, 1837 |
| xxi. | 104 | |
| xxii. to xxiv. | 74 to 76 | Additions from sec. ii, Reg. IX, 1799, in paragraphs 74 and 75 |
| xxv. | 78 | |
| V. ii. | 7 | Additions from sec. iv, Reg. II, 1801 |
| xv. to xvii. | 66 to 68 | |
| xxiii. to xxvi. | | Superseded by the abolition of the Provincial Courts of Appeal |
| VI. ii. | | Rescinded by sec. ii, Reg. II, 1801 |
| iii. | 1, 19, 20 | |
| viii. | | Rescinded by sec. i, Act XXVI, 1839 |
| xiii. | 66, 196 | Paragraph 196 is amalgamated with secs. vii and xiv, Reg. II, 1801 |
| xiv., xv. | 67, 68 | |
| xxiii. | | Superseded by sec. ii, Reg. III, 1798, and sec. x, Reg. I, 1806 |
| xxiv. to xxvi. | 74 to 76 | Additions from sec ii, Reg. IX, 1799 in paragraphs 74 and 75 |
| xxvii. | 78 | |
| IX. xxxiv. | 8 | Additions from sec. vi, Reg. II, 1801 |
| xxxv. | 11 | |
| xxxvi. | | Rescinded by sec. vii, Reg. III, 1829 |
| xxxvii. | 18 | Additions from sec. vi, Reg. XII, 1793, and from sec. ii, Reg. XVIII, 1817 |
| xxxviii. | | Rescinded by sec. iv, Reg. XVIII, 1817 |
| xxxix. | | Superseded by the abolition of the Courts of Circuit |
| lix. | | Rescinded by cl. 1, sec. v, Reg. XII, 1825 |
| lx. | | Superseded by sec. vii, Reg. III, 1829 |
| lxvi. | 1 | |
| lxvii. | | Rescinded by sec. ii, Reg. II, 1801 |
| lxviii. | 21 | |
| lxix. | 2 | |
| lxx. | 9, 11 | |
| lxxi. | | Included in paragraph 18 |
| XII. ii. | 15, 126, 131 | |
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| iv. | 15, 127 | |
| v. | 16 | Additions from sec. ii, Reg. XVIII, 1817 |
| vi. | 18 | Incorporated with sec. xxxvii, Reg. IX, 1793 |
| vii. | 17 | Additions from sec. ii, Reg. XVIII, 1817 |
| viii., 1 to 4 | 219 to 222 | |
| viii., 5 | | Superseded by the abolition of the Provincial Courts |
| viii., 6 to 8 | 223 to 225 | |
| ix. | | Superseded by cl. 2, sec. iv, Reg. XI, 1826 |
| XIII. ii. | 33, 151 | |
| iii., 1 | 10 | |
| iii., 2 | | Superseded by later enactments |
| iv. | 276 | |
| v. | 125 | |
| vi. | | Rescinded by sec. ii, Reg. VIII, 1794 |
| vii. | | Unnecessary, being provided for in later enactments |
| viii. | 14 | |
| ix., 1 | 214 | Additions from sec. x, Reg. X, 1806 |
| ix., 2 to 6 | 215 | These clauses are amalgamated |
| ix., 7, 8 | 216, 217 | Additions from cl. 1, sec. vi, Reg. XVIII, 1817, in paragraph 216 |
| ix., 9 to 11 | | Rescinded by sec. i, Act XXVI, 1839 |
| ix., 12 | 218 | |
| x. | | Superseded by later enactments |
| xi. | 237 | Part of section iii is omitted |
| XVIII. ii. to ix. | 114 to 121 | |
| x. to xviii. | | Rescinded by sec. xvi, Reg. V, 1798, and sec. ii, Reg. VII, 1829 |
| XXII. xxii. | 238 | |
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| iii. to vi. | * | Superseded by Act IV, 1837 |

| Original Regulation. | | | Paras. in Consolidation. | REMARKS. |
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| 1793. | XXXIX. | ii. | 15, 126 | |
| | | iii. to vi. | 138 to 143 | Additions from cl. 2, sec. iv, Reg. VIII, 1809 |
| | | vii., viii. | | CIVIL JUDICATURE |
| | | ix. | | Superseded by Act I, 1839 |
| | | x. | 294 | Amalgamated with cl. 2, sec. xii, Reg. XI, 1806 |
| | | xi. | | Superseded by later enactments |
| | XLI. | ii. to viii. | 278 to 284 | |
| | | ix. to xii. | | Unimportant, being rules respecting circulation, binding, &c. |
| | | xiii. to xxi. | 285 to 293 | |
| 1794. | III. | xv. to xxi. | 162 to 168 | |
| 1796. | IV. | ii. to iv. | 110, 112, 113 | |
| | | v. | | Inoperative |
| | | vi. | | CRIMINAL JUDICATURE |
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| | XI. | ii. to vi. | 79 to 89 | |
| 1798. | III. | ii., iii. | 107, 108 | |
| | | iv. to vii. | | Superseded by the abolition of the Courts of Circuit |
| | V. | xvi. | 122 | |
| 1799. | IX. | ii., iii. | 74, 75, 77 | |
| 1801. | II. | ii. | | Unnecessary; only repeals |
| | | iii. | | Superseded by Reg. XII, 1811 |
| | | iv. | 6, 7 | Additions from sec. iii, Reg. III. 1829 |
| | | v. | 22 | |
| | | vi. | 20, 25 | |
| | | vii. | 196 | Additions from sec. xiii, Reg. VI, 1793 |
| | | viii., ix. | | Rescinded by cl. 1, sec. iii, Reg. XXVI, 1814 |
| | | x. | | Rescinded by sec. ii, Reg. XV, 1807 |
| | | xi. | 6, 8 | |
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| | | xiii. | 21, 25 | |
| | | xiv. | 196 | Additions from sec. xiii, Reg. VI, 1793 |
| | | xv. | 111 | First part superseded |
| | | xvi. to xix. | 26 to 29 | |
| | IX. | ii. | | Superseded by Reg. X, 1819 |
| | | iii., iv. | | Rescinded by sec. ii. Reg. IX, 1829 |
| | | v. | 90 | Last part repealed by sec. i, Act XXXI, 1841 |
| 1804. | V. | ii., iii. | | Unnecessary; only rescind |
| | | iv. | | Superseded by Reg. VIII, 1809 |
| | | v. | 132, 147, 154 | |
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| | | xx. | | Extinct |
| | | xxi. to xxiv. | 179 to 182 | |
| | | xxv. | 268 | Amalgamated with sec. iii, Reg. II, 1793, and parts of sec. iii, Reg. III, 1829 |
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| | | x. | 214 | Amalgamated with cl. 1, sec. ix, Reg. XIII, 1793 |
| | XI. | xii., 1 | | Only extends |
| | | xii., 2 | 294 | Sec. x, Reg. XXXIX, 1793, introduced |
| 1807. | IX. | xiv., 1 | | Rescinded by cl. 2, sec. ii, Reg. XX, 1817 |
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| | | iv., 2 | 133, 145 | |
| | | v., 5 | 178 | For the first four clauses, see "POLICE" |
| | | vi. | | Superseded by Reg. XVII, 1816 |
| | | vii. | | Superseded by the abolition of the Provincial Courts |
| | | viii. | | Rescinded by sec. ii, Reg. XXIII, 1814 |
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| | | x., 1 | | Unnecessary; only introductory |
| | | x., 2 | | Provided for in later enactments |
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| | | xi. | | Extinct |

| Original Regulation or Act. | | | Paras. in Consolidation. | REMARKS. |
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| | | xiii. | 152 | |
| | | xiv. | | Unnecessary |
| 1811. | VII. | ii., iv. | 70, 71 | |
| | XII. | ii., 1 | | Unnecessary; only rescinds |
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| 1813. | II. | ii. to iv. | 169 to 171 | |
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| | | iv. | | Rescinded by sec. ii, Reg. VII, 1823 |
| | XXV. | iv. | | Rescinded by sec. viii, Reg. IV, 1823 |
| | | xv. | 267 | |
| | | xviii. | 25 | |
| | XXVI. | xiv., 1 | | Unnecessary; only introductory |
| | | xiv., 2 to 9 | 35 to 42 | Additions from sec. v, Reg. VII, 1832, and sec. ii, Act XIV, 1845 |
| 1817. | XVIII. | ii., iii. | 273to275,277 | |
| | | iv. | | Unnecessary; only rescinds |
| | | v. | | Superseded by Reg. XI, 1826 |
| | | vi., 1 | 216 | Amalgamated with cl. 7, sec. ix, Reg. XIII, 1793 |
| | | vi., 2, 3 | 226, 227 | |
| | | vii., 1 to 6 | 228 to 232 | Clauses 5 and 6 are amalgamated |
| | | vii., 7 | | Superseded by Act XVI, 1853 |
| | XX. | xxvi., 1 | 91 | |
| | | xxvi., 2 | | Unnecessary; only introductory |
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| | | v., vi. | | Repealed by sec. i, Act XXVI, 1839 |
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| | | v. | | Repealed by Act V, 1845 |
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| 1827. | III. | ii. | | Unnecessary; only declares modifications |
| | | iii. to vi. | 233 to 236 | |
| 1829. | III. | ii. | 2 | Merged with cl. 2, sec. ii, Reg. XII, 1811 |
| | | iii. | 268 | First part only rescinds; the last part incorporated with parts of sec. iii, Reg. II, 1793, and sec. xxv, Reg. V, 1804 |
| | | iv. | | Superseded by Reg. II, 1833 |
| | | v. | | Expired |
| | | vii. | | Superseded by Reg. II, 1833 |
| | VII. | ii. | | Unnecessary; only rescinds |
| | | iii. | 30, 31 | |
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| 1831. | V. | xxv., 1 | | Repealed by sec. x, Act XXV, 1837 |
| | | xxv., 2 | 242 | Additions from sec. xi, Act XXV, 1837 |
| | VI. | ii. | | Unnecessary; only rescinds |
| | | iii., iv. | 3 to 5, 15 | Additions from sec. vi, Reg. VI, 1832, in paragraph 15 |
| | | v. | 6, 9 | |
| | | vi. | 22 | |
| | | vii. | 20, 21, 24 | |
| 1831. | IX. | vi. | | Extinct |
| | | ix., x | 25 | |
| 1832. | VI. | vi. | 15, 128 | |
| | VII. | v., 1 | | Inoperative by sec. i, Act XXVI, 1852 |
| | | v., 2 to 5 | 34 to 46 | Additions from sec. ii, Act XIV, 1845; the latter part of cl. 4 repealed by sec. i of that Act |
| 1837. | XXI. | i. to iv. | 269 to 272 | |
| | XXV. | x. | | Unnecessary; only repeals |
| | | xi., xii. | 242, 150 | Sec. xi. incorporated with cl. 2, sec. xxv, Reg. V, 1831 |
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| | | iii. | | Unnecessary; only repeals |

| Original Act. | Paras. in Consolidation. | REMARKS. |
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| 1845. V. | 130 | |
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BENGAL SECRETARIAT LIBRARY

# CIVIL AND CRIMINAL JUDICATURE.

## THE SUDDER COURTS.

NOTE.—As this collection embraces rules concerning the judicial authorities both in their civil and criminal administration, it seemed most fit to place at its head the enactments which declare the constitution and powers of the Sudder Courts, which are invested with joint authority and control over all the Civil and Criminal Courts.

1. A court of Sudder Dewanny and Nizamut Adawlut shall be held at Calcutta.—Reg. VI, 1793, sec. iii; Reg. IX, 1793, sec. lxvi.

2. The court of Sudder Dewanny Adawlut and Nizamut Adawlut at Calcutta, shall consist of as many judges as the Governor-General in Council may from time to time deem necessary for the despatch of the business of those courts. The Court shall have a register.—Reg. IX, 1793, sec. lxix; Reg. XII, 1811, sec. ii, cl. 2; Reg. III, 1829, sec. ii.

3. A court of Sudder Dewanny and Nizamut Adawlut is constituted for the Western Provinces, to exercise jurisdiction over the whole of the districts comprised within the divisions numbered in section ii, Regulation I, 1829, as Nos. 1 to 9 inclusive; and a court of Nizamut Adawlut for the province of Kumaoon, and the Saugor and Nerbudda territories.—Reg. VI, 1831, sec. iii, cl. 1.

4. It shall be competent to the Governor-General in Council to fix the station at which the courts of Sudder Dewanny and Nizamut Adawlut for the Western Provinces shall reside, at such place within the territories belonging to this presidency, as may from time to time be deemed expedient.—Reg. VI, 1831, sec. iii, cl. 2.

5. The court of Sudder Dewanny and Nizamut Adawlut for the North-Western Provinces shall consist of one or more judges, and shall have a register, to be styled Register to the Sudder Dewanny and Nizamut Adawlut for the Western Provinces; and such other officers as may be deemed necessary.—Reg. VI, 1831, sec. iv.

6. The judges who may be appointed to the courts of Sudder Dewanny and Nizamut Adawlut shall take the prescribed oaths of office before any person whom the Governor-General in Council may commission to administer them.—Reg. II, 1801, secs. iv and xi; Reg. III, 1829, sec. iii; Reg. VI, 1831, sec. v.

7. As judges of the Sudder Dewanny Adawlut they shall take and subscribe the following oath:—

"I, A. B., appointed judge of the Court of Sudder Dewanny Adawlut, solemnly swear that I will administer justice conformably to the Regulations that have been, or may be passed by the Governor-General in Council, according to the best of my ability, knowledge, and judgment, without fear, favour, promise, or hope of reward; that I will not receive, directly or indirectly, any present or nuzzer, either in money or effects of any kind, from any party or person whomsoever, on account of any suit to be instituted, or which may be depending, or have been decided in the Court of Sudder Dewanny Adawlut of which I am appointed a judge; that I will not knowingly permit any person or persons under my authority, or in my immediate service, to receive, directly or indirectly, any present or nuzzer, in money or effects of any kind, from any party or person whomsoever, on account of any suit to be instituted, or which may be depending, or have been decided in the court; that I will render a true and faithful account of all sums of money that may be paid into the court, or disbursed from it; that I will not be concerned, directly or indirectly, in the purchase of goods or commodities in the British dominions in Bengal for the purpose of remitting money to Europe, or in any commercial transactions; and that I will not derive, directly or indirectly, any emoluments or advantages from my station, excepting such as the orders of Government do or may authorize me to receive: So help me God."—Reg. V, 1793, sec. ii; Reg. II, 1801, sec. iv.

8. As judges of the Court of Nizamut Adawlut they shall take and subscribe the following oath:—

"I, A. B., solemnly swear, that I will truly and faithfully execute the duties of judge of the Court of Nizamut Adawlut, that I will administer justice according to the Regulations that have been or may be enacted by the Governor-General in Council, to the best of my ability, knowledge, and judgment, without fear, favour, promise, or hope of reward; and that I will not receive, directly or indirectly, any present or nuzzer, either in money or in effects of any kind from any party in any suit or prosecution, or from any person whomsoever, on account of any suit or prosecution to be instituted, or which may be depending, or have been decided in the Court of

Nizamut Adawlut of which I am judge; nor will I knowingly permit any person or persons under my authority, or in my immediate service, to receive, directly or indirectly, any present or nuzzer, either in money, or in effects of any kind, from any party in any suit or prosecution, or from any person whomsoever, on account of any suit or prosecution to be instituted, or which may be depending or have been decided in the said court; nor will I, directly or indirectly, derive any advantage or emolument from my station, excepting such as the orders of Government do or may authorize: So help me God."—Reg. IX, 1793, sec. xxxiv; and Reg. II, 1801, sec. xi.

9. The registers of the Courts of Sudder Dewanny and Nizamut Adawlut, as well as the deputy registers, and assistants to such registers, before entering upon the duties of their respective offices, shall take the following oaths.—Reg. IX, 1793, sec. lxx; and Reg. VI, 1831, sec. v.

10. As registers, deputy registers, or assistants to the registers, to the Sudder Dewanny Adawlut:—

"I, A. B., register (or deputy register, or assistant to the register, or other officer) to the Sudder Dewanny Adawlut, solemnly swear that I will truly and faithfully perform the duties of register (or deputy, or assistant to the register, or other officer) to this court, according to the best of my knowledge and ability; that I will not receive, directly or indirectly, any present or nuzzer, in money or effects of any kind, from any party or person whomsoever, on account of any suit to be instituted, or which may be depending or have been decided in the Court of Sudder Dewanny Adawlut, of which I am appointed register (or to the register of which I am assistant, or other officer); that I will not knowingly permit any person or persons under my authority, or in my immediate service, to receive, directly or indirectly, any present or nuzzer in money or effects, from any party or person whomsoever, on account of any suit to be instituted, or which may be depending or have been decided in the court; that I will not be concerned, directly or indirectly, in the purchase of any goods or commodities in the British dominions in Bengal, for the purpose of remitting money to Europe, nor in any commercial transactions; and that I will not derive, directly or indirectly, any emoluments or advantages from my station, excepting such as the orders of Government do or may authorize me to receive: So help me God."—Reg. XIII, 1793, sec. iii, cl. 1.

11. As registers to the Nizamut Adawlut:—

"I, A. B., register (or deputy or assistant to the register) to the Court of Nizamut Adawlut, solemnly swear that I will truly and faithfully perform the duties of register or deputy register (or assistant to the register) to this court according to the best of my knowledge and ability, and that I will not receive, directly or indirectly, any present or nuzzer, either in money or in effects of any kind, from any party in any suit or prosecution to be instituted, or which may be depending or have been decided in the Court of Nizamut Adawlut, of which I am register (or to the register of which I am assistant) nor will I, directly or indirectly, derive any advantage or emolument whatever from my office, excepting such as the orders of the Governor-General in Council do or may authorize: So help me God."—Reg. IX, 1793, secs. xxxv and lxx.

12. Whenever the Governor of Bengal, and the Lieutenant-Governor, or other authority exercising the powers of Lieutenant-Governor of the North-Western Provinces, shall deem it expedient to appoint any persons, not being covenanted servants, to the offices of deputy-register or assistant-register to the Court of Sudder Dewanny and Nizamut Adawlut at Calcutta and Allahabad respectively, it shall be competent to those courts to assign to the officers above named any duties at present performed by the registers.—Act VII, 1840.

13. It shall be competent to either of the Courts of Sudder Dewanny and Nizamut Adawlut, by an order under the signature of the register of such court, to transfer to such register the duty of preparing appealed causes for trial, and of executing the decrees and orders of the said courts, and to authorize him to issue the necessary process, and to proceed thereupon agreeably to the rules prescribed by the general Regulations of Government.—Act XVII, 1841, sec. i.

14. The registers to the Courts of Sudder Dewanny and Nizamut Adawlut, after the rising of the courts, are to procure all acts of the courts to be executed. The assistants to the registers, and the native officers attached to the courts, are to assist the registers in performing the above-mentioned duties, and in translating and transcribing papers, and in arranging and keeping the records of the courts. The registers and their assistants, and the native officers, are to perform the duties specified in this paragraph, in the manner and conformably to the rules which the judges of the courts to which they may be respectively attached may think it proper to prescribe. The native officers of each court are not to interfere in any other manner than as above directed, publicly or privately, in any cause or matter depending before the court, or which may have been or shall be intended to be brought before it.—Reg. XIII, 1793, sec. viii; Reg. II, 1821, sec. xiv.

15. The Courts of Sudder Dewanny and Nizamut Adawlut shall have so many law officers as the Government shall appoint.—Reg. XII, 1793, secs. ii and iv; Reg. XXXIX, 1793, sec. ii, Reg. VI, 1831, sec. iv; Reg. VI, 1832, sec. vi.

16. The Mahomedan law officers of the Courts of Civil Judicature, previous to entering upon

the execution of the duties of their offices, are to take and subscribe the following oath before the court to which they may be respectively attached:

"I, A. B., cauzy (or mufty) to the Sudder Dewanny Adawlut, or the Dewanny Adawlut of the zillah or city of ————), solemnly declare, that I will truly and faithfully perform the duties of cauzy (or mufty) of this court, according to the best of my knowledge and ability, and that I will not receive, directly or indirectly, any present or nuzzer, in money or effects of any kind, from any party or person whomsoever, on account of any suit to be instituted, or which may be depending or have been decided in the court of which I am cauzy (or mufty); and that I will not, directly or indirectly, derive any advantage or emolument from my office, excepting such as the orders of Government do or may authorize me to receive."—Reg. XII, 1793, sec. v; and Reg. XVIII, 1817, sec. ii.

17. The pundits to the Courts of Civil Judicature, previous to entering upon the execution of the duties of their offices, are to make and subscribe the following declaration before the courts to which they may be respectively attached:

"I, A. B., pundit to the Sudder Dewanny Adawlut, or the Dewanny Adawlut of the zillah or city of ————), solemnly declare, that I will truly and faithfully execute the office of pundit of this court according to the best of my knowledge and ability; that I will answer all questions that may be put to me in writing or orally by the said court; that I will declare or give in writing what is in the Shaster; that I will not declare or give in writing what is not warranted by the Shaster; that if I declare anything not warranted by the Shaster, I shall be deserving of punishment from Ishwur. I promise and declare that I will not receive, directly or indirectly, any present or nuzzur, in money or effects of any kind, from any party or person whomsoever, on account of any suit to be instituted, or which may be depending, or have been decided in the court of which I am pundit, and that I will not, directly or indirectly, derive any advantage or emolument from my office, excepting such as the orders of Government do or may authorize me to receive."—Reg. XII, 1793, sec. vii; and Reg. XVIII, 1817, sec. ii.

18. The cauzies and mufties of the Courts of Criminal Judicature, previous to entering upon the execution of the duties of their offices, are to take and subscribe the following declaration before the courts to which they may be respectively attached:

"I, A. B., cauzy (or mufty) of the Court of the Sudder Nizamut Adawlut (or of the Court of Sessions for the zillah of ————, solemnly declare, that I will truly and faithfully perform the duties of cauzy (or mufty) of the court according to the best of my knowledge and ability; and that I will not receive, directly or indirectly, any present or nuzzer, either in money or in effects of any kind, from any party in any suit or prosecution, to be instituted, or which may be depending or have been decided in the Sessions Court of which I am cauzy (or mufty); nor will I, directly or indirectly, derive any advantage or emolument from my office, excepting such as the orders of Government do or may authorize."—Reg. IX. 1793, sec. xxxvii; and Reg. XII, 1793, sec. vi; and Reg. XVIII, 1817, sec. ii.

19. The Court of Sudder Dewanny Adawlut is to use a circular seal, two inches and a quarter in diameter, with an inscription to the following effect, in the Persian and Bengal characters and languages, and in the Hindostanee language and Nageree character: "The seal of the Sudder Dewanny Adawlut."—Reg. VI, 1793, sec. iii.

20. The Court of Sudder Dewanny is to be an open court. The ordinary sittings shall be holden as the dispatch of business may require. Special sittings when necessary shall be summoned by the register on his receiving orders for that purpose. All process issued by the court shall be signed by the register under such instructions as shall be prescribed by the court for his guidance. —Reg. VI, 1793, sec. iii; Reg. II, 1801, sec. vi; and Reg. VI, 1831, sec. vii, cl. 1.

21. The Court of Nizamut Adawlut is to be an open court. The court shall meet once in every week or as often as the state of the business may require, and a regular diary shall be kept of its proceedings.—Reg. IX, 1793, sec. ix; Reg. II, 1801, sec. xiii: Reg. VI, 1831, sec. vii, cl. 1.

22. The Courts of Sudder Dewanny Adawlut and Nizamut Adawlut shall possess within the divisions, provinces, and territories, subject to their jurisdiction all the powers vested by Regulations VI and IX, 1793, in those courts respectively, and by all subsequent Regulations and Acts in force, and shall perform all duties required to be performed by those courts by all such Regulations and Acts subject to all modifications which have been or may hereafter be duly enacted and published.—Reg. II, 1801, secs. v, and xii; Reg. VI, 1831, sec. vi.

23. The term "Sudder Court" shall be deemed applicable to the courts respectively of the highest civil and criminal jurisdiction, as the case may be, of the presidencies.—Act VIII, 1842.

24. Whenever and so often as only one judge may be present with the Courts of Sudder Dewanny Adawlut, or Nizamut Adawlut for the North-Western Provinces, or if any difference of opinion should arise when only two judges may be present in either court, in any matter requiring under the existing Regulations the concurrent voices of two judges, the question shall be referred, as the case may be, for the determination of one of the judges of the Court of Sudder

Dewanny or Nizamut Adawlut stationed at Calcutta; Provided, moreover, that in such case it shall be sufficient that the judge to whom the point may be referred should form and record his judgment on a careful perusal and consideration of the proceedings, and without requiring the attendance of the parties or their vakeels.—Reg. VI, 1831, sec. vii.

25. Whenever three judges of the Sudder Court shall sit as a Dewanny or Nizamut Adawlut, and a difference of opinion shall arise between them, the voices of the majority shall determine the question; but if a difference of opinion shall arise when two judges only are present, the question before the court shall be adjourned until a third judge shall attend; but whenever there may be four judges present at a Court of Sudder Dewanny or Nizamut Adawlut at Calcutta, or in the Western Provinces, and there may be an equality of voices in cases which require a decision by the majority, it shall be competent to the court to refer the question for decision to a judge of a Sudder Dewanny or Nizamut Adawlut (as the case may be) at Calcutta, or in the Western Provinces respectively; and it shall be sufficient that the judge to whom the point may be referred, shall form and record his judgment on a careful perusal and consideration of the proceedings, and without requiring the attendance of the parties or their vakeels.—Reg. II, 1801, secs. vi and xiii; Reg. IX, 1831, secs. ix and x, and Reg. XXV, 1814, sec. xviii.

26. The proceedings of the Courts of Sudder Dewanny Adawlut and Nizamut Adawlut, which have been heretofore kept in the English language, and copied for transmission to the Governor-General in Council and to the Honourable Court of Directors, are not required to be hereafter kept in English further than the courts may find convenient and conducive to regularity; nor will copies of the proceedings of either court be hereafter required, except in cases of appeal to Her Majesty in Council, or of reference to the Governor-General in Council as prescribed by the Regulations, in which cases attested copies and translations are to be furnished as heretofore.—Reg. II, 1801, sec. xvi.

27. Any translations which may be hereafter required by either Court of Sudder Dewanny or Nizamut Adawlut, are to be made by the registers and their assistants; or if, at any time, their other official avocations should not admit of their making the requisite translations, the court is empowered to cause the same to be made by any other competent person, as authorized with respect to trials referred to the Nizamut Adawlut, by sec. iii, Reg. X, 1799.—Reg. II, 1801, sec. xvii.

28. The Zillah and City Courts are directed to furnish translations of original papers transmitted to the Sudder Dewanny Adawlut in such cases only wherein translations may be required by the precepts of that court, or by any regulation or order requiring the same.—Reg. II, 1801, sec. xviii.

29. Whenever the Court of Sudder Dewanny Adawlut, upon appeals to Her Majesty in Council, or otherwise, may have occasion to require translations of any proceedings held or original papers filed in a zillah or city court, such translations are to be prepared by the Zillah and City Courts. —Reg. II, 1801, sec. xix.

30. The Courts of Sudder Dewanny and Nizamut Adawlut shall, from time to time, as circumstances require, prescribe the forms and fix the periods of transmission, and mode of preparation of all reports, calendars, registers, or other statements, to be furnished by the civil or criminal courts, European or native, or by the judicial or police officers under this presidency.—Reg. VII, 1829, sec. iii, cl. i.

31. Nothing in this Regulation shall be construed to supersede the necessity of the preparation and transmission as heretofore, of the prescribed reports and statements, until the Court of Sudder Dewanny or Nizamut Adawlut may specially prescribe any alteration in, or direct the discontinuance of, any particular report or statement.—Reg. VII, 1829, sec. iii, cl. 2.

32. It shall be competent for the Courts of Sudder Dewanny and Nizamut Adawlut to frame such rules of practice for the due exercise of the civil and criminal jurisdiction vested by the Regulations in those courts, as may from time to time be found requisite. And such rules, when so framed, shall be submitted to the Governor-General of India in Council; and after the same shall have been approved by the said Governor-General of India in Council, they shall be of the same force as if they were inserted in this Act.—Act XVII, 1841, sec. ii.

## PROCESS.

### GENERAL RULES RESPECTING ISSUE AND SERVICE—CIVIL AND CRIMINAL COURTS.

NOTE.—There is no specific enactment establishing the office of Nazir of the Zillah Courts, but it is recognized throughout the Regulations as existing.

33. The nazirs of the civil and criminal courts are to appoint their own naibs or mirdahs, and the peons of the court to which they may respectively belong, and to remove them at their pleasure.—Reg. XIII, 1793, sec. ii.

34. The principal sudder ameens and sudder ameens shall retain on their establishments officers denominated nazirs, to whom the provisions in paragraph 41 shall be applicable.—Reg. VII, 1832, sec. v, cl. 5: Act XIV, 1845, sec. ii.

35. The judges and magistrates of the several zillahs and cities shall select from their lists of peons employed by their nazirs in the execution of civil and criminal process who do not receive a monthly salary from Government, and also from the lists of peons proposed to be employed by the nazirs of the moonsiffs, sudder ameens, or principal sudder ameens, in the execution of civil process, and shall cause their names to be registered with the following particulars, viz., the names of their fathers, their age and places of abode, and a concise description of their persons; and the rules *mutatis mutandis*, contained in paragraphs 37 to 40, shall be applicable to the peons who may be employed under the foregoing rule.—Reg. XXVI, 1814, sec. xiv, cl. 2; Reg. VII, 1832, sec. v, cls. 2 and 4; Act XIV, 1845, sec. ii.

36. The nazirs are hereby strictly prohibited, under pain of immediate dismission, from employing any person not registered in the mode above prescribed, and not being an officer on the public establishment, in the service of any process, civil or criminal, or in the execution of any order or official act whatever, without a special authority from the judge or magistrate or other public officer competent to give such directions, and in cases wherein process is served by an officer of the court and not by the party himself, the moonsiffs, sudder ameens, and principal sudder ameens are strictly prohibited from employing any person not registered in the mode above prescribed without the special authority of the judge.—Reg. XXVI, 1814, sec. xiv, cl. 3; Reg. VII, 1832, sec. v, cl. 3.

37. The peons who may be registered as above required shall be furnished with an uniform belt, or such other badge of office, at the discretion of the judge, as shall suffice to distinguish them from the chuprassies on the fixed establishments. The expense of such badge shall be defrayed out of the tullubana of the peon receiving the same. The judges and magistrates of the several Zillah and City Courts are to frame a table for regulating the account of tullubana demandable on the service of process civil and criminal, according to the rates prescribed by the Regulations or established by usage. The table shall contain a statement of the several police jurisdictions or other more convenient local divisions, the computed distance of the centrical part of such local division from the sudder station, and the number of days for which tullubana is to be allowed on the serving of process within each local division, calculated on the computed distance of the centre of each local division from the sudder station.—Reg. XXVI, 1814, sec. xiv, cl. 4.

38. The table so framed shall be suspended for general information in the cutcherries of the judge and magistrate, the moonsiff, sudder ameen, and principal sudder ameen, and of the collector of the district, and no tullubana shall be allowed in any instance beyond the rates, or for a greater number of days, than may be prescribed in such table, without a special written order from the judge or magistrate, or other public officer competent to pass the same.—Reg. XXVI, 1814, sec. xiv, cl. 5; Reg. VII, 1832, sec. v, cl. 5; Act XIV, 1845, sec. ii.

39. The amount of tullubana which may be demandable according to the table mentioned in the preceding paragraph shall be specified on the back of each summons or other process, and the amount shall be paid by the person taking out the process to the nazir previously to the execution of such process. A receipt shall be endorsed on the process in each instance by the nazir, specifying the amount and the person from whom it was received.—Reg. XXVI, 1814, sec. xiv, cl. 6.

40. When two or more processes may be served by one peon, the judge, magistrate, moonsiff, sudder ameen, principal sudder ameen, or other officer who may order the same to be served, shall determine in what proportions the fixed rates of tullubana shall be paid by the parties respectively, and shall sign an order to that effect on the face or back of the process.—Reg. XXVI, 1814, sec. xiv, cl. 7; Reg. VII, 1832, sec. v, cl. 5; Act XIV, 1845, sec. ii.

41. When the process shall have been executed and returned according to the preceding rules, the nazir shall pay to the peon who may have served the same three-fourths of the amount of the tullubana received by him on account of such process, and the nazir shall be entitled to appropriate the remaining one-fourth of the tullubana to his own use.—Reg. XXVI, 1814, sec. xiv, cl. 8.

42. The judges, magistrates, moonsiffs, sudder ameens, and principal sudder ameens, are required to take every possible precaution, and to give all practicable attention for the purpose of preventing illegal or undue exactions of diet or subsistence money under the name or pretence of tullubana.—Reg. XXVI, 1814, sec. xiv, cl. 9; Reg. VII, 1832, sec. v, cl. 5; Act XIV, 1845, sec. ii.

43. Whenever the judge of a civil court, or a magistrate or joint magistrate, or any other European public officer, authorised by the Regulations in force to issue process of arrest, or other judicial process, civil or criminal, upon the person or property of individuals amenable to their respective jurisdictions, may, for any special reason, deem it necessary to be personally present at the execution of such process, and to see that the same be duly executed in the manner

prescribed by the Regulations, it shall be competent to the public officer who may have issued the process, to attend personally for the purpose above mentioned; and to adopt or direct any legal measures that may be necessary for the due execution thereof.—Reg. I, 1825, sec. ii.

44. *Execution of process within Military Limits.*—Reg. II, 1809, sec. iii, cl. 2; Reg. XX, 1810, sec. xix. See ("MILITARY" paragraphs 176 and 193.)

### *Reference on Construction of the Regulations.*

NOTE.—The following rules, enacted to provide for cases of difference in the interpretation of the Regulations between the Courts of Appeal and Circuit and the Zillah judges and magistrates were not repealed on the abolition of the former courts. As the Zillah and Sessions Courts now stand in the relation of the Provincial Courts to the subordinate judicatories, the rules have been adapted to that relation. *See Rules for the execution of the orders of Superior by Lower Civil Courts, paragraphs* 66 *to* 68.

45. In all instances wherein a precept issued by a Zillah or Sessions Court to a subordinate civil or criminal court or magistrate, shall appear to the subordinate judge or magistrate to be contrary to, or unwarranted by, the existing Regulations, he is authorised to state to the Zillah or Sessions Court in what respect he considers their precept to be in deviation from the Regulations, and suspend an execution till receipt of a second precept in reply to his objections. But if the second precept of the Zillah or Sessions Court in reply to the objections of the subordinate judge or magistrate, shall confirm their first precept in whole or in part, and shall require the subordinate judge or magistrate to execute the same without further reference, he shall immediately comply with such requisition. In case, however, the second precept of the Zillah or Sessions Court should not satisfy the subordinate judge or magistrate that the Regulations have been rightly construed by the Zillah or Sessions Court, he is at liberty, at the same time that he certifies the execution of the order of the Zillah or Sessions Court, to request that they will transmit copies of their precepts to him and his returns thereto, with such other papers as may be necessary for the information of the circumstances of the case, to the Court of Sudder Dewanny Adawlut or the Court of Nizamut Adawlut, according as the case in question may relate to the civil or criminal department, and the Zillah or Sessions Court shall accordingly transmit such papers, as requested, without any unnecessary delay. Provided nevertheless, that nothing in this Regulation be understood to authorize any subordinate judge or magistrate to question the propriety of any order issued by a Zillah or Sessions Court, in cases clearly left to the discretion and judgment of the Zillah or Sessions Court by the Regulations; the reference to them, and eventually to the Courts of Sudder Dewanny and Nizamut Adawlut, meant to be authorized by this Regulation, being confined to cases in which the sense of the Regulations, from a difference of construction or otherwise, may appear doubtful and uncertain.—Reg. X, 1796, sec. ii.

46. In all instances wherein a reference to the Court of Sudder Dewanny Adawlut or the Nizamut Adawlut may be made under the preceding rule, the determination of those Courts, who are empowered to prescribe the forms and conduct to be observed by the Zillah and City Courts of Dewanny Adawlut, the Sessions Court, and the zillah and city magistrates, in all cases provided for by the Regulations, agreeably to their construction thereof, is to be held final and conclusive.—Reg. X, 1796, sec. iii.

47. Should any doubt occur to the Sudder Dewanny or the Nizamut Adawlut with respect to the meaning of any part of the Regulations, or should it appear to them, on occasion of any reference from the Zillah or Sessions Court, or the subordinate courts or the zillah or city magistrates, that the Regulations do not sufficiently provide for the case submitted to their decision, they are to report the circumstances of it to the Governor-General in Council, that a new Act may be framed in explanation of such doubt.—Reg. X, 1796, sec. iv.

### *Execution of Mofussil Process within the limits of the Supreme Courts.*

48. Any writ, warrant, or other process, issued by any court, judge, or magistrate in the territories beyond the local limits of the Supreme Courts of Calcutta, may be executed within those limits in manner following:—A copy of such writ, warrant, or other process, authenticated as such by the attestation of the court, judge, or magistrate signing, or issuing the same, accompanied by a certified translation in the English language, shall be presented to any judge of Her Majesty's court, who may thereupon, under his hand and signature, indorse and direct the same to be executed within the local limits of any of Her Majesty's courts by the sheriff, or by any justice of the peace, according to the nature of such writ, warrant, or other process.—Act XXIII, 1840, sec. i.

49. Upon the delivery of every such writ, warrant, or process so indorsed as aforesaid to any such sheriff as aforesaid, every such sheriff shall make a memorandum of the date of such delivery, and shall execute such writ, warrant, or process in like manner as if the same had originally issued from

any of Her Majesty's courts, and had been delivered at the date as appearing by the memorandum and such sheriff shall make no distinction as to priority or otherwise between the execution of any writ, warrant, or other process originally issued from any of Her Majesty's courts, and the execution of any writ, warrant, or other process under this Act; but every writ, warrant, and other process, whether original or indorsed as aforesaid, shall, amongst each other, be subject to the same rules touching the mode and order of execution as are now established in respect of writs, warrants, and other process originally issued from Her Majesty's courts of justice.—Act XXIII, 1840, sec. ii.

50. Every such sheriff shall be liable to be proceeded against in Her Majesty's courts of justice for all matters touching the execution of any writ, warrant, or other process executed under this Act, in like manner as if the same had originally issued from any of Her Majesty's courts of justice; and all persons and property seized or detained under any writ, warrant, or process executed by virtue of this Act shall be dealt with in like manner as if such persons or property had been seized or detained under the like writ, warrant, or other process issued from any of Her Majesty's courts of justice.—Act XXIII, 1840, sec. iii.

51. All persons disobeying or obstructing the execution of any writ, warrant, or other process indorsed under this Act, shall be punishable in Her Majesty's courts of justice, in like manner as if the same had issued from such courts; provided always that in the case of process for the attendance of witnesses, Her Majesty's courts shall be governed by the like rules, touching expenses and other matters, as are established in regard to subpœnas issued from such courts.—Act XXIII, 1840, sec. iv.

52. In the case of persons seized or detained by virtue of any writ, warrant, or other process executed under the authority of this Act by any justice of the peace or by any sheriff, it shall be the duty of every such sheriff or justice of the peace, if so required by the indorsement of the judge, to deliver the party in custody to such authority or persons as shall be particularly specified in such indorsement, and who shall have been charged with the execution of the writ, warrant, or other process by the authority originally issuing the same, and for that purpose to cause the party in custody to be conveyed to any place within the Company's territories beyond the local limits of the jurisdiction of Her Majesty's courts.—Act XXIII, 1840, sec. v.

53. Provided that in the case of any writ, warrant, or other process required to be indorsed under the authority of this Act, it shall be lawful for the judge who shall be required to indorse the same to remit the same for amendment to the authority issuing the same, if the same shall appear to be defective in any matter of form.—Act XXIII, 1840, sec. vi.

54. Provided that in the case of any writ, warrant, or other process required to be indorsed under the authority of this Act, for the seizure or detention of any person, it shall be lawful for the judge who shall be required to indorse the same to direct by indorsement that bail (the amount and number of sureties to be specified in such indorsement) may be taken, and for this purpose to call for such documents and to make such inquiry as he shall think proper.—Act XXIII, 1840, sec. vii.

55. All civil and criminal jails and houses of correction within the jurisdiction of any of Her Majesty's Supreme Courts shall, according to the nature of the case, be liable to be used by the the sheriff for the purposes of this Act; and the parties imprisoned therein under the authority of this Act shall be liable to the prison discipline thereof; and all sentences of imprisonment passed by any judge, court, or magistrate in the territories of the East India Company beyond the local limits of Her Majesty's Supreme Courts, may be executed in whole or in part within any of the jails or houses of correction aforesaid, provided that a copy of the warrant of commitment or other process authorizing the imprisonment be so indorsed as aforesaid, and such indorsement contain the necessary directions.—Act XXIII, 1840, sec. viii.

56. The Sudder Courts of the presidency of Fort William in Bengal shall make, and from time to time amend, a table of reasonable fees, to be taken on account of the execution by the sheriff of any legal process issued by any court, judge, or magistrate, beyond the jurisdiction of the Supreme Court established by royal charter in Calcutta, and of the sums to be allowed for costs of advertisements or other notifications of sales of property, according to the amount of the decrees to be satisfied by such sales,—which fees and sums shall be payable by the party applying for the process before it is sent to the sheriff for execution, and shall be deemed costs in the cause.—Act VIII, 1852, sec. i.

57. The said table of fees and sums, when made or amended as aforesaid, shall be submitted by the Sudder Court of the Lower Provinces of the presidency of Fort William to the Governor of Bengal, and by the Sudder Court of the North-Western provinces of the said presidency to the Lieutenant-Governor of those provinces, for his approval; and the said table of fees and sums shall have full force and effect, and the fees and sums therein mentioned may be lawfully demanded and taken, from and after the approval thereof by the said Governor or Lieutenant-Governor, as the case may be.—Act VIII, 1852, sec. ii.

58. Every such court, judge, and magistrate, issuing process as aforesaid, shall cause a separate

account to be kept of the amount of all fees and sums so paid, and shall from time to time, as directed by Government, cause the amount thereof to be paid into the local treasury.—Act VIII, 1852, sec. iii.

59. The Government shall, twice in each year, account for and pay over to the sheriff for the time being, the amount of fees and sums so paid, after deducting all necessary expenses of receiving and keeping account thereof, and remitting the net proceeds thereof to Calcutta; or, where the amount has accrued in the shrievalty of more than one sheriff, shall apportion the sum paid accordingly between the sheriff for the time being and the then late sheriff.—Act VIII, 1852, sec. iv.

60. The said Government may compound with the sheriff for a monthly payment to be made to him instead of such fees and sums, and during such composition may appropriate the said fees and sums to the purposes of Government.—Act VIII, 1852, sec. v.

61. Over and above such fees and sums, or any such monthly payment received instead of such fees and sums, the sheriff shall be entitled to a fee after the rate of two rupees eight annas for each hundred rupees of the value of any goods or property taken and sold by him in execution of any process issued by any court, judge, or magistrate beyond the local jurisdiction of the said Supreme Court, which fee shall be taken to cover all expenses connected with the seizure and sale, except the expense of advertisements.—Act VIII, 1852, sec. vi.

62. No fee, estimated upon the amount of the sum for which any person is taken in execution, shall be payable to the sheriff of Calcutta, or any of their bailiffs, for taking the body of any person in execution on any process issued by any court, judge, or magistrate, out of the local jurisdiction of the said Supreme Courts respectively; but instead thereof, such fees shall be payable to the sheriff for taking the body of any person in execution of any such process as shall be settled from time to time by the Sudder Court as aforesaid.—Act VIII, 1852, sec. vii.

63. If any person taken in execution on any such process shall escape out of the legal custody of the sheriff, the sheriff shall not be liable to an action of debt for such escape, but shall be liable only to an action upon the case for damages in consequence of such escape sustained by the person or persons at whose suit the prisoner was taken.—Act VIII, 1852, sec. viii.

### GENERAL RULES RESPECTING ISSUE AND SERVICE OF PROCESS—OF CIVIL COURTS.

64. Every process, rule, order, or decree of the civil courts is to be immediately served or executed without application to any person, or the interference of any individual whomsoever, according to the requisition of it, within the limits of the special jurisdiction of each court.—Reg. IV, 1793, sec. xiii.

65. All orders and process of the civil courts in original suits which may be directed to be served or executed on any person, are to be written or printed in such language as the Governor-General in Council shall direct, and are to be sealed with the seal of the court and signed by the judge. When a summons, or any process is addressed to a defendant or a witness in a cause, or any other person who may not reside or be present at the place at which the court may sit, and for the serving or execution of which a peon or peons may be necessary, each peon is to be paid by the party in whose behalf the summons or process may issue, four annas per day for his subsistence; excepting in districts where custom may have fixed the subsistence-money of peons at a lower rate, in which case the lower rate, and no more, is to be paid. The name of each peon deputed to serve the process, the amount of his subsistence-money, and the number of days for which he is to receive it, is to be endorsed on the writing. No greater number of peons than two are to be deputed to serve or execute any process of the courts, and one peon only is to be sent, excepting in cases in which the judges may think two peons necessary.—Reg. IV, 1793, sec. xx; Act XXIX, 1837.

*Execution of process and orders of a superior by a lower court.*

NOTE.—In the Regulations of 1793 parallel rules were enacted for the execution of the civil process and orders of the Provincial Courts by the Zillah Courts, and of the Sudder Dewanny Adawlut by the Provincial Courts. The rules are here given as common to the relative powers of the Sudder and Zillah Courts standing to each other in the same relation in which the Sudder and the Provincial Courts formerly existed, or to the Zillah Court as taking the place of the Provincial Courts towards the courts of the uncovenanted judges.—(*See ante, paragraphs* 45 *to* 47.)

66. All orders and process in appeals which may issue from the civil courts, are to be directed to the court in which the original cause shall have been instituted. Every such order or process is to limit a certain time in which it is to be served, executed, and returned to the court from which it was issued.—Reg. V, 1793, sec. xv; and Reg. VI, 1793, sec. xiii.

67. In all cases in which process, either to a party or witness, and all process whatever, and every rule or order for the execution of any decree or final order, or any order relating to a cause

depending in the Sudder Dewanny Adawlut, which may be directed by such court to any Zillah Court, or depending in any Zillah Court which may be directed to one of the courts of the uncovenan.ed judges, the court to which the process may be directed is to execute the order contained in the process, rule, or order, and return it so executed within the time limited, or return to the superior court good and sufficient reason why it has not been served or executed. When any process, rule, decree, or order for the execution of any decree or final order, or any order whatever, shall be transmitted by the superior court to a lower court to be served or executed, the return to such process, rule, order, or decree is to be made by the court, either by endorsement on the process, rule, order, or decree, or to be written on a paper firmly annexed to it; and if the return be made in the last-mentioned manner, there is to be an endorsement on the process, rule, order, or decree, referring the superior court to the return contained in such annexed paper, and the court is to cause a copy of the process, rule, order, or decree, together with the return to it, to be deposited amongst the records of the court. And in all cases in which the superior court may transmit any order or process to be served or executed by a lower court against a party in a cause, and the party on whom it is to be served or executed is not, after diligent search, to be found, or shall have absconded, or shut himself up in his own or any house or building, or retired to any place so that the process cannot be served upon him, the court to which the process may be directed is to cause to be fixed up in some conspicuous part of the room in which the court may be held, a writing containing a copy of the order or process, and a notice that if the party shall not obey the exigence of it within the time limited, the superior court will, without further notice, process, or order, proceed *ex parte* to hear, try, and determine the cause to which such process or order may relate; and the court is likewise to cause a copy of such writing to be fixed up, with all practicable despatch, on the outer door of the house in which the party may have commonly dwelt, or in some conspicuous place in the village in which he may have usually resided, and to return to the superior court, in the manner before directed, how he has executed the process.—Reg. V, 1793, sec. xvi; Reg. VI, 1793, sec. xiv.

68. If a lower court to which any process, rule, or order of the superior court may be transmitted, for the purpose of being served or executed on any party, shall return that the party has absconded, or shut himself up in his own or any house or building, or retired to any place so that the the process could not be served upon him, or that he was not, after diligent search, to be found, and that they had caused the writing to be fixed up in the places and manner directed, and the party shall not appear and obey the exigence of the process, rule, or order, the superior court is to proceed *ex parte* to try and determine the cause in which the process, rule, or order shall have issued, in the same manner as if the party had appeared and obeyed the exigence of the process.—Reg. V, 1793, sec. xvii; Reg. VI, 1793, sec. xv.

### GENERAL RULES RESPECTING ISSUE AND SERVICE OF PROCESS—OF CRIMINAL COURTS.

69. *Rules regarding the process of Magistrates.*—Reg. III, 1812, sec. ii, cls. 4 to 6; Reg. XVI, 1810, sec. viii; Act X, 1845. See ("MAGISTRATES," paragraphs 24, 33, 111, 112, and 117.)

70. All criminal process in cases of a heinous nature shall, as far as circumstances may admit, be served by public officers, receiving wages from Government, who shall not be entitled to demand or receive diet, money, or other allowances from the complainant or the accused, whether the case be adjusted by razeenamah or otherwise, and the demand or receipt of such by any public officer, directly or indirectly, in violation of this rule, shall be punishable as a criminal offence, on conviction before the magistrate or the Sessions Court. The offender shall also be compellable, either by a criminal prosecution, or by a civil action, to refund the amount received; besides being liable to immediate dismission from office, under the provisions contained in the existing Regulations.—Reg. IX, 1807, sec. xiv, cl. 2; Reg. VII, 1811, sec. iv.

71. When peons, or other persons not receiving wages from Government, may be unavoidably employed in serving any criminal process, as in cases of adultery and fornication, or of calumny, abusive language, slight trespass, or inconsiderable assault, shall be authorized by the magistrate to demand and receive tullubana, at the rate of two annas per diem (or three annas, in districts where such higher rate may be usual and necessary) during the time they may be so employed; and shall not demand nor receive more, upon any pretence whatever, under the penalties above stated, with respect to public officers receiving wages from Government. The tullubana, in such cases, shall be paid in the first instance by the party or parties at whose instance the process is issued (unless the charge be of a heinous nature, and the magistrate deem it proper that the necessary expense of process be paid on the part of Government), subject to reimbursement from the accused if the charge be established, under the discretion vested in the criminal courts.—Reg. IX, 1807, sec. xiv, cl. 3; Reg. VII, 1811, secs. ii, and iv.

72. Officers entrusted with the execution of a warrant, or other process of arrest in criminal

cases, having the seal and signature of a magistrate, or any public officer empowered to act as magistrate, whether the person to whom the warrant is addressed be an officer of the police or otherwise, shall be guided in the execution of such process by the rules in clauses 5 and 6, sec. xxv, Regulation XX, 1817 ("POLICE," paragraphs 236 and 237), for the guidance of officers of police, and by any other Regulation in force, for the service and execution of warrants, or other process of arrest in serious criminal cases.—Reg. I, 1825, sec. iii, cl. 1.

73. The seventh clause of the section above mentioned ("POLICE," paragraph 238), whereby it is declared that any wilful abuse and perversion of the powers vested by the preceding clauses in the police officers for ends of public justice, will subject them, on conviction before the magistrate or Sessions Court to exemplary punishment, according to the circumstances of the case, besides immediate dismission from office, is also hereby made applicable to all persons, whether police officers or others, who may be employed to execute a warrant or other process of arrest issued by a magistrate, joint magistrate, or other public officer empowered to act as magistrate, and may be guilty of any wilful abuse and perversion of the powers vested in them by the present Regulation.—Reg. I, 1825, sec. iii, cl. 2.

### RESISTANCE TO PROCESS— CIVIL COURTS.

74. If a zemindar, independent talookdar, or other actual proprietor of land, or a dependent talookdar, shall resist, or cause to be resisted, any process, rule, order, or decree of a Zillah or City Court, or of the Sudder Dewanny Adawlut, the court, on proof of the resistance being made to its satisfaction, is to cause the offender to be summoned to answer to the charge. If the offender shall abscond, or shut himself up in his own or any house or in any building, or retire to any place, so that he cannot be served with the summons, the court is to proceed against him in the manner directed with regard to other persons absconding or acting as above specified, so that they cannot be served with the process of the court. If the offender shall not appear within the prescribed time, or if he shall appear, and after receiving his answer to the charge, and hearing the evidence which he may produce in his defence, it shall be proved to the satisfaction of the court, that he is guilty of the charge, the court is to decree that the offender shall, from the date of the decree, forfeit his zemindarry, talook, or other estate, in which the resistance may have been made; or if the resistance shall have been made out of the limits of the estate of the offender, the zemindarry, talook, or other landed property that he may possess within the jurisdiction of the court, the process of which may have been resisted; or if the offender possess no zemindarry, talook, or other landed property within the jurisdiction of the court, whose process he may have resisted or cause to be resisted, so that no decree of forfeiture can pass against him, the offender on proof of the charge against him shall be liable to a fine to Government, to be levied under the provisions of paragraph 78. The Zillah Court, if the cause shall not be appealed within the time limited for preferring appeals, or the Sudder Adawlut, after passing the decree, is immediately to forward a copy of its decree and proceedings respecting the charge to the Governor-General in Council. If the offender shall appeal to the Sudder Dewanny Adawlut within the prescribed period, and the Sudder Dewanny Adawlut should confirm the decree of the Zillah Court, they are immediately to transmit a copy of their decree and proceedings and of the decrees and proceedings received from the Zillah Court, to the Governor-General in Council. It shall be at the option of the Governor-General in Council, either to order it to be executed, or to commute the forfeiture for such fine as, upon a consideration of the situation and circumstances in life of the offender, he may think adequate to the offence for which the decree may be passed. In the event of the Governor-General in Council commuting the forfeiture for a fine, the court upon receiving notice of the fine that he may impose, is to levy the amount of it by the same process as is prescribed for enforcing decrees of the court. In the event of the Governor-General in Council ordering the decree to be executed, the court is to issue a precept, requiring the collector of the revenue of the zillah to depute an ameen with a proper establishment of officers (whose allowances are to be specified in the precept) to sequester the lands and collect the rents and revenues. If the lands of the offender shall be deemed by the court too inconsiderable to admit of their being charged with the expense of an ameen, they are to direct a precept to be issued to the collector of the zillah to order the nearest tehseeldar, or any other officer who may be employed under him in the business of the collections, to take charge of the lands. The officer is to perform the duties prescribed to ameens in such cases, and under the same restrictions and penalties.—Reg. IV, 1793, sec. xxii; Reg. VI, 1793, sec, xxiv; Reg. IX, 1799, sec. ii.

75. If the decree adjudging the lands of the offender forfeited shall be confirmed, it shall be at the option of the Governor-General in Council, either to confer the rights which the offender possessed in the lands on his heirs, upon their agreeing to make good all sums whatever that may be due from him to Government on account of the lands forfeited, and to pay the fixed public

revenue assessed upon them; or if the property forfeited be a dependent talook, the revenue payable from it to the proprietor within whose estate it may be situated; or to order the lands to be disposed of at public sale, under the rules prescribed for the sale of lands.—Reg. IV, 1793, sec. xxiii; Reg. VI, 1793, sec. xxv; Reg. IX, 1799, sec. ii.

76. If a farmer of land, holding a farm immediately of Government, shall resist, or cause to be resisted, any process, rule, order, or decree, which may at any time issue from any Zillah Court, or from the Sudder Dewanny Adawlut, on proof of the resistance being made to its satisfaction, the court is to cause the offender to be summoned to answer to the charge. If the offender shall abscond, or shut himself up in his own or any house or building, or retire to any place so that he cannot be served with the summons, the court is to proceed against him in the manner directed with regard to other persons absconding or otherwise acting as above specified, so that they cannot be served with the process of the court. If the offender shall not appear within the prescribed period, or if he shall appear within the limited time, and after receiving his answer to the charge, and hearing the evidence which he may have to produce in his defence, it shall be proved, to the satisfaction of the court, that he is guilty of the charge, the court is to decree the lease cancelled from the expiration of the Bengal, Fussily, or Willaity year (according as the farm may be situated in Bengal, Behar, or Orissa) in which the decree may be passed. The Zillah Court, if the offender shall not appeal to the Sudder Dewanny Adawlut within the time limited for preferring appeals to that court, or the Sudder Dewanny Adawlut after passing the decree, is immediately to transmit to the Governor-General in Council a copy of the decree and of all the proceedings respecting the charge, or if the offender shall appeal to the Sudder Dewanny Adawlut within the prescribed period, and the court should confirm the decision of the Zillah Court, they are immediately to transmit a copy of their decree and proceedings, and of the decrees and proceedings received from the Zillah Court to the Governor-General in Council. It shall be at the option of the Governor-General in Council, either to order the decree to be executed, or to commute the forfeiture of the lease for such fine as, upon a consideration of the situation and circumstances in life of the offender, he may think adequate to the offence for which the decree may be passed; or if the offender shall not be desirous of being continued in his farm, to fine him as above prescribed, and compel him to retain the farm during the remainder of the lease, and to hold him and his surety responsible for the discharge of their engagements until the term of them shall expire. If a fine shall be imposed upon the offender, the court which shall have transmitted the final decree and proceedings to the Governor-General in Council, upon receiving notice of the fine, is to levy the amount of it by the same process as is prescribed for enforcing decrees of the court. If the lease of the offender shall be annulled, and a balance shall be due from him to Government at the close of the year in which the lease may be cancelled, both he and his surety are to be held responsible for the payment of it, and the collector of the revenue of the zillah is empowered to proceed against them for the recovery of it, in the manner prescribed for the recovery of balances due from farmers whose leases may be declared annulled. The offender is permitted to prosecute in the Dewanny Adawlut of the zillah in which the farm may be situated, the dependent talookdars, under farmers, and ryots, in the lands included in the farm, for any arrears of rent or revenue that may be due from them to him, on account of the period during which his lease remained in force.—Reg. IV, 1793, sec. xxiv; and Reg. VI, 1793, sec. xxvi.

77. In all cases of resistance to the process of any Zillah or City Court of Dewanny Adawlut, if the judge of the court whose process may have been resisted shall be of opinion that a fine to Government will be a more proper and adequate punishment for the offence than a forfeiture of the offender's estate or farm, he is authorized, instead of the decree of forfeiture directed by the above provisions, to adjudge the offender to pay such fine to Government as may appear proper, upon a consideration of his situation and circumstances in life, and the offence of which he may be convicted, as provided with regard to persons not being landowners or farmers of land by the following paragraph, and subject to the provisions in that paragraph for an appeal from the judgment of the court. It is further provided that no decree for the forfeiture of an estate or farm which may have been passed by a Zillah Court, or by the Court of Sudder Dewanny Adawlut, and transmitted to the Governor-General in Council under the foregoing rules, shall be deemed final until confirmed by the Governor-General in Council, nor shall such decree be carried into execution until notice of the confirmation be received.—Reg. IX, 1799, sec. iii.

78. If any person, not being a zemindar, independent talookdar, or other actual proprietor of land, or a dependent talookdar, or a farmer of land holding a farm immediately of Government, shall resist, or cause to be resisted, any process, rule, order, or decree, which may at any time issue from any Zillah or City Court, or from the Sudder Dewanny Adawlut, on proof of the resistance being made to its satisfaction, the court is to cause the offender to be summoned to answer to the charge. If the person for whom the summons may be issued shall abscond, or shut himself up in his own, or any house or building, or retire to any place so that he cannot be served with the summons, the court is to proceed against him in the manner directed with regard to other persons

absconding, or otherwise acting as above specified, so that they cannot be served with the process of the court. If the offender shall not appear within the prescribed period, or if he shall appear within the limited time, and after receiving his answer and hearing the evidence which he may have to produce in his defence, it shall be proved to the satisfaction of the court, that he is guilty of the charge, the court is to adjudge the offender to pay such fine to Government as may appear to it proper, upon a consideration of his situation and circumstances in life, and the offence of which he may be convicted. The Zillah Court, if the offender shall not prefer an appeal to the Sudder Dewanny Adawlut within the time prescribed for lodging appeals, or the Sudder Dewanny Adawlut after passing the decree, is to proceed to levy the amount by the same process by which it is empowered to carry its decrees for sums of money into execution. If the offender should appeal to the Sudder Dewanny Adawlut within the prescribed time, and that court should confirm the decision of the Zillah or City Court, the court is to proceed to levy the amount by the same process by which it is empowered to carry its decrees for sums of money into execution.—Reg. IV, 1793, sec. xxv; and Reg. VI, 1793, sec. xxvii.

### RESISTANCE TO PROCESS—CRIMINAL COURTS.

79. If any person amenable to the authority of the zillah and city magistrates or police officers shall resist, or cause to be resisted, any warrant, order, or other process of any zillah or city magistrate or police officer, the magistrate of the zillah or city in which such resistance may have been made, on the same being charged on oath or affirmation, shall, if practicable, cause the party accused to be apprehended and brought before him to answer to the charge. If the party shall abscond or conceal himself so that he cannot be apprehended, or if, on any account, he cannot be immediately apprehended, the magistrate is to cause a written proclamation, requiring the party to appear to answer the charge against him within a fixed period, not less than one month, to be publicly read and proclaimed by beat of drum, and to be affixed in some conspicuous part of his cutcherry, as well as on the outer door of the house in which the party may have usually dwelt, or some conspicuous place in the village in which he may have generally resided. If the party charged as above cannot be apprehended, and shall not, within the period fixed by proclamation, appear to answer the charge against him, or if he shall be apprehended or shall appear in pursuance of the proclamation, and after receiving his answer to the charge, and hearing the evidence he may adduce in his defence, it shall be proved to the satisfaction of the magistrate that he is guilty of the charge, the magistrate is to pass judgment against him in the following manner.—Reg. XI. 1796, sec. ii, cl. 1.

80. If the offender be a zemindar, talookdar, or other proprietor of land, paying revenue directly to Government, or the proprietor of altumgah, ayma, or other lands exempt from revenue, situated within the zillah or city in which the resistance was made, he shall declare such lands to be forfeited to Government, and by a precept, under his official seal and signature, shall immediately give notice to the collector of the district, who on receipt thereof shall cause the lands in question to be attached on the part of Government, and shall hold them in attachment till the receipt of a further precept from the magistrate to relinquish them, or of orders from the Governor-General in Council to be communicated to him in the manner hereafter directed.—Reg. XI, 1796, sec. ii, cl. 2.

81. If the offender be a sudder farmer, holding a farm from Government within the zillah or city in which the resistance may have been made, the judgment against him shall declare his lease cancelled; and the magistrate, by a precept under his official seal and signature, shall immediately give notice to the collector of the district, who on receipt thereof shall proceed as above required, with respect to lands declared forfeited to Government.—Reg. XI, 1796, sec. ii, cl. 3.

82. If the offender be not a proprietor of land or sudder farmer paying revenue to Government, as described in the two foregoing paragraphs, the judgment against him shall declare him liable to the payment of such fine to Government as may appear proper, upon a consideration of his rank and circumstances in life, and the offence of which he may be convicted; and the magistrate shall immediately proceed to the attachment of any property appertaining to the offender for the recovery of the same, in the manner authorized by the Regulations for the recovery of sums of money decreed by the civil courts of justice. In cases wherein the offender may have been apprehended, and may not be possessed of property adequate to the discharge of the fine adjudged against him, the magistrate, with the concurrence of the Nizamut Adawlut, may commute such fine to imprisonment or corporal punishment.—Reg. XI, 1796, sec. ii, cl. 4.

83. Provided always, that the whole of the judgments passed by the zillah and city magistrates under this Regulation be immediately reported, with a complete copy and translation of their proceedings, to the Court of Nizamut Adawlut, and the orders of that court be received under the

following paragraph, before the judgment passed by a zillah or city magistrate under this Regulation be considered final and conclusive.—Reg. XI, 1796, sec. ii, cl. 5.

84. The Nizamut Adawlut, on receipt of the proceedings referred to in the last five preceding paragraphs, are to pass such order thereupon as they may think proper, on due consideration of the evidence and all the circumstances of the case; and in all instances wherein the forfeiture of the offender's lands or lease may appear to them too severe a punishment for the offence, they are authorized to commute the same for such fine to Government as they may judge adequate, and order the attachment of the lands to be taken off on the payment thereof. The sentence of the Nizamut Adawlut is to be final in all cases of fine and imprisonment; but in case they shall confirm the judgment of the magistrate for a forfeiture of the offender's land or lease, they are, previous to ordering such sentence to be carried into execution, to transmit their proceedings, with those of the magistrate, to the Governor-General in Council, who will finally determine whether the sentence of forfeiture shall be put in force or commuted to a fine, or otherwise; and who, whenever he may order the land or lease of the offender to be forfeited to Government, will, at the same time, cause the necessary instructions for the future disposal of the land to be conveyed to the collector through the Board of Revenue. In case the magistrate's judgment of forfeiture be set aside, either by the Nizamut Adawlut or Governor-General in Council, he is immediately on being informed thereof, and on receipt of the fine (if a fine be ordered), to issue a precept to the collector, requiring him to remove the attachment, and to cause a full and fair account to be rendered of all receipts and disbursements during the period of attachment.—Reg. XI, 1796, sec. iii.

85. If any person charged with an offence of a criminal nature shall abscond, or conceal himself so that upon a process issued against him by a zillah or city magistrate or police officer he cannot be found, the magistrate is to cause a written proclamation requiring the absent party to appear to answer the charge against him within a fixed period, not less than one month, to be publicly read and proclaimed by beat of drum; and shall cause such proclamation to be affixed in some conspicuous part of his cutcherry, as well as on the outer door of the house in which the party may have usually dwelt, or some conspicuous place in the village in which he may have generally resided. In case the party shall not appear and deliver himself up within the period fixed by such proclamation, the magistrate, on receiving the Nazir's return to this effect, is to order the attachment of any land or other real property held by the absentee within his jurisdiction, in the following manner.—Reg. XI, 1796, sec. iv, cl. 1.

86. If the absentee be a proprietor of land or sudder farmer paying revenue immediately to Government, he is to issue a precept, under his official seal and signature, to the collector of the district, requiring him to hold the land or farm of the absentee in attachment till the receipt of further notice. And the collector is accordingly to obey such requisition, and to take such measures as may be necessary for the due care and management of the lands whilst under his charge, subject to the instructions of the Board of Revenue, to whom he is to make an immediate report of any instances of land being delivered over to him under this Regulation; he is also to relinquish such lands, on being advised by the magistrate that the attachment has been taken off on the attendance of the absentee, and is to cause a full and fair account to be rendered of all receipts and disbursements during the period of attachment.—Reg. XI, 1796, sec. iv, cl. 2.

87. If the absentee be not a proprietor or farmer of land paying revenue to Government, but as a dependent talookdar, under-farmer, or ryot, or in any other capacity whatever, be the tenant of landed property capable of attachment, the magistrate is to issue a precept to the collector of the district, directing him to attach the same, and adopt the necessary measures for the due care and management of it whilst under his charge; paying from the product any rent which may become due to the zemindar or other person entitled thereto, and deducting all necessary expenses in the account to be rendered to the absentee, whenever he may attend and the attachment of his property be removed.—Reg. XI, 1793, sec. iv, cl. 3.

88. In all instances wherein an attachment of property may be ordered under the foregoing rule, the magistrate, immediately on the attendance of the party for whose appearance it was ordered, is to direct, by a written precept, that the attachment be removed, and that a full and fair account be rendered of all receipts and disbursements during the period of attachment.—Reg. XI, 1796, sec. v.

89. Should the absentee neglect to attend for a period of six months after the lands have been ordered under attachment, the magistrate is to report the case to the Governor-General in Council, who will pass such order upon it, and upon the future disposal of the lands, as he may judge proper. —Reg. XI, 1796, sec. vi.

90. In cases of resistance of process not attended with any aggravating circumstances, wherein the magistrate before whom the charge may be tried shall judge it sufficient to inflict the punishment of imprisonment, not exceeding fifteen days, or a fine not exceeding fifty rupees, it shall not

be necessary to transmit his proceedings for the confirmation of the Nizamut Adawlut.—Reg. IX, 1801, sec. v.

NOTE.—For resistance to collectors' process of imprisonment for Arrears of Revenue, see "REALIZATION OF REVENUE."

91. If any person or persons shall resist or cause to be resisted the execution of any legal warrant or process which the officers of the Magistrate's Court, or the officers of police, may attempt to serve, or shall endeavour to rescue any person arrested, or under the custody of the magistrate's officers, or the officers of police, the darogah, if practicable, shall cause such offenders, as well as persons concerned in the resistance or rescue, to be apprehended and forwarded to the magistrate, with a report of the circumstances of the case, and the necessary evidence for establishing the misconduct of the accused; in case of actual rescue or violent resistance, he shall also, if necessary, call in the aid of the officers of police stationed in the adjacent thannahs, who shall conform to such requisitions, provided they are conveyed in writing.—Reg. XX, 1817, sec. xxvi, cl. 1.

92. If the person convicted of resisting, or causing to be resisted, the process of a magistrate or police officer, be a proprietor of land, or a sudder farmer paying revenue to Government in any zillah or city jurisdiction, not being that in which the offence shall have been committed, and it appear just and proper, on due consideration of the circumstances of the case, to extend the penalty of forfeiture declared in paragraphs 79 to 83, to the whole or any part of such lands or farms, it shall be competent to the magistrate to adjudge the same, subject to the prescribed confirmation of the court of Nizamut Adawlut, and the final orders of the Governor-General in Council.—Reg. XX, 1817, sec. xxvi, cl. 3.

93. In like manner, if a person charged with an offence of a criminal nature, who may abscond or conceal himself, so that the process issued against him cannot be served, shall possess land or other immoveable property, or a sudder farm paying revenue to Government in any other zillah or city jurisdiction than that wherein the offence charged against him may have been committed, and it shall appear necessary to attach the same with a view to cause the attendance of the accused person under the provisions of paragraphs 85 to 89, it shall be competent to the magistrate to whom the charge may be preferred, to order the attachment of the whole or any part of such property or farms; and the provisions of the paragraphs referred to shall be considered applicable in such cases.—Reg. XX, 1817, sec. xxvi, cl. 4.

94. In all instances of resistance to the process of a magistrate or police-officer, wherein the magistrate may be of opinion that a fine to Government, not exceeding two hundred rupees, commutable, if not paid, to imprisonment, not exceeding six months, will be an adequate punishment for the offence, he is authorized to adjudge the same instead of the forfeiture of land or farm; and his judgment in such cases, as well as in all cases wherein a similar judgment may be passed by him against persons not being proprietors of land or sudder farmers, shall not be referable to the Nizamut Adawlut, but shall be final, unless altered or rescinded by the superior criminal courts, under the general rules in force.—Reg. XX, 1817, sec. xxvi, cl. 5.

95. If any person amenable to the authority of the zillah or city magistrates and police-officers shall resist, or cause to be resisted, any warrant, summons, or other process of a zillah or city magistrate, or of any authorized magistrate or police-officer, and such person cannot be apprehended: or if any person charged with a criminal offence of a heinous nature shall abscond or conceal himself, so that on a warrant issued against him at his usual place of residence by the local magistrate or police-officer, he cannot be found, and the party so resisting or evading the process against him be not a proprietor or sudder farmer of land, capable of attachment under the provisions of the paragraphs above referred to, but shall be in possession of any moveable property which can be attached, and the removal of which might be expected, if not placed under immediate attachment, the police-officer issuing or serving the warrant in such cases is authorized, on receipt of credible information that the person against whom the warrant is issued has recently absconded, or concealed himself for the purpose of evading it, to cause the attachment of any moveable property belonging to the absconding or concealed party within his jurisdiction, giving at the same time immediate information to the magistrate of the district, whose previous instructions shall be applied for when there may be reason to expect a removal of the property.—Reg. XX, 1817, sec. xxvi, cl. 6.

96. The magistrate, on receipt of information directed in the above paragraph, will determine whether the case be such as to require a continuance of the attachment till the appearance of the accused person, or till a proclamation shall have been issued for his attendance, under the provisions of paragraphs 79 to 89, and will transmit instructions to the police-darogah accordingly, either for the release of the property attached by him, or for continuing the attachment, and taking an inventory of the property, in conformity with the following paragraph. Till the receipt of such instructions, the police officer shall adopt such measures only as may be requisite to prevent a removal of the attached property.—Reg. XX, 1817, sec. xxvi, cl. 7.

97. On receipt of the magistrate's instructions for an attachment of moveable property, the

darogah of police, in the presence of two or more respectable inhabitants of the place, shall cause an exact inventory of the articles attached to be taken and duly attested, after which he shall deliver the property in charge to the head men, or any two or more respectable inhabitants of the place, taking an acknowledgment for the same, which shall be forwarded, together with an inventory of the property, to the magistrate.—Reg. XX, 1817, sec. xxvi, cl. 8.

98. In all instances where an attachment of property may be made under the foregoing rule, the police-darogahs shall enjoin the persons into whose charge the same may be delivered, to take care that there is no injury done to the property; and if the person charged appear within the period specified in the proclamation, the magistrate shall immediately, on the attendance of the party, cause the attachment to be removed, and a full account rendered of the property attached, subject only to any unavoidable expense which may have attended the attachment.—Reg. XX, 1817, sec. xxvi, cl. 9.

99. If the proclaimed person shall not appear within the period fixed by the proclamation, the attached property, in case of resistance of process, will be liable to public sale by order of the magistrate, for the purpose of making good any fine imposed on the offender; or should the attachment of moveable property have taken place under an evasion of process, it shall, at the end of six months, supposing the absentee not to attend during that period, be at the disposal of Government, in common with any landed property attached under similar circumstances in pursuance of the Regulations in force.—Reg. XX, 1817, sec xxvi, cl. 10.

100. Whenever a proclamation may be issued through a police-darogah by order of a magistrate, requiring the attendance of any person who may have evaded or resisted the processes of the court, the darogah shall, in the presence of two or more creditable persons, not connected with the thannah establishment, cause such proclamation to be publicly read and promulgated by beat of drum, and affixed in the police-thannah, and on the outer door of the house which the party may have usually inhabited, or some conspicuous place in the village in which he may have generally resided.—Reg. XX, 1817, sec. xxvi, cl. 11.

101. On the expiration of the period specified in the proclamation, if the offender shall not appear to answer to the charge alleged against him, the darogah shall certify to the magistrate the mode in which the proclamation has been issued, and the date, time and place of promulgation, and shall send a sufficient number of witnesses to prove the due publication of the process.—Reg. XX, 1817, sec. xxvi, cl. 12.

102. If any zemindar, farmer, local manager, or other person, to whom a magistrate may have issued a warrant or order, in pursuance of Regulation III, 1812; or of any other Regulation in force for the apprehension of a person or persons proclaimed or charged with or suspected of a crime, shall apply to an officer of police for co-operation and support in the execution of such warrant or order; the police officer to whom the application may be made shall afford every assistance in his power for the due enforcement of the process, and if required so to do in conformity with the sixth clause of section ix, Regulation III, 1812 ("POLICE," paragraph 386), shall receive charge of the prisoner from the zemindar, farmer, local agent, or other person, and shall grant a written acknowledgment, specifying the name of the prisoner and the date on which he was delivered into his charge; he shall also, without delay, forward the prisoner under safe custody to the magistrate. If the person named in the application made to the police-officer should not be apprehended, the particulars of the application, and of the measures taken in consequence, shall be recorded, for the information of the magistrate, in the thannah-diary, prescribed by section viii, Regulation XX, 1817 ("POLICE," paragraphs 64 to 78.).—Reg. XX, 1817, , sec. xxvi, cl. 13.

103. If any police-officer intrusted with or assisting in the execution of any legal warrant for the apprehension of a person charged with murder, robbery, or other heinous crime, or pursuing a robber or murderer immediately after the commission of the crime, or resisting him during his attempt to perpetrate the crime, should wound or slay the offender in endeavouring to apprehend him, such police-officer shall be held guiltless of any criminal act.—Reg. XX, 1817, sec. xxvi, cl. 14.

## CONTEMPT OF COURT AND OBSTRUCTIONS TO JUSTICE.

104. If any person shall be guilty of contempt of court in open court, or of undue arrogations of the authority of the court, or of illegal exertions of judicial authority in his own cause, the court is immediately to punish the offender by fining him in a sum not exceeding two hundred rupees, and keeping him in custody until the fine shall be paid. The courts are to regulate the amount of the fines which they may impose under this paragraph, according to the situation and circumstances in life of the offenders.—Reg. IV, 1793, sec. xxi.

105. All persons whatsoever, whether generally amenable to the courts of the East India

Company or otherwise, using menacing gestures or expressions, or otherwise obstructing justice in the presence of any zillah or city magistrate, joint magistrate, or other officer under a magistrate empowered to try criminal cases, or any superior or inferior court, civil or criminal, of the East India Company, shall be liable to be fined by the authority whose proceedings are obstructed, to any amount not exceeding two hundred rupees, or in case such fine be not paid, to be imprisoned for any period not exceeding one month. Provided that from the award of punishment in such cases an appeal shall lie, if preferred within one month, to the authority, civil or criminal, appointed by law to hear appeals in all other cases from the decisions of the officer by whom the fine was imposed; and provided also, that notwithstanding anything in this Act it shall be lawful to indict any person amenable to Her Majesty's Supreme Courts as for a misdemeanor in any of the cases aforesaid sustainable before this Act, if no proceeding shall have been had against the offender in the court where the offence was committed, but not otherwise.—Act XXX, 1841, sec. i.

106. The Sudder Board of Revenue, the local commissioners, or other officers exercising the powers of either of those authorities, the collectors, or other officers exercising the powers of collector, shall be competent to punish any obstruction of the nature aforesaid, by fine to an extent not exceeding two hundred rupees, and in case such fine be not paid, by imprisonment in the civil gaol for a period not exceeding one month. Provided that the orders passed in such cases shall be subject on appeal to the revision and control of the superior revenue authorities, as in all others, and shall, as well as the sentences passed under the preceding paragraph, be carried into effect by the magistrate, on application being made to that officer, in the usual mode.—Act XXX, 1841, sec. ii.

### VACATIONS OF COURTS.

107. The Zillah and City Civil Courts shall be annually adjourned during the Hindoo festival called Dussarah, which occurs in the Bengal month Assin or Kartick, corresponding with the English month September or October; and also during the Mahomedan festival Mohurrem, which depending on the lunar year is not fixed to any particular month. The former adjournment (or Dussarah vacation) shall commence ten days before this festival, and continue for the period of one month of thirty days: the latter adjournment (or Mohurrem vacation) shall commence five days before this festival, and continue for fifteen days. Under this rule, when the time of the two festivals may coincide, the vacations also will of course be blended, and no separate adjournment will be necessary: except as far as the fixed period for the one may extend beyond that of the other: as when part of the Mohurrem vacation only may fall within the period fixed for the Dussarah vacation; or on the other hand, when part of the latter only may fall within the period of the former.—Reg. III, 1798, sec. ii.

108. The Court of Sudder Dewanny Adawlut are authorized to adjourn that court during the periods of the two vacations above-mentioned, or otherwise as they may judge proper.—Reg. III, 1798, sec. iii.

109. The Court of Sudder Dewanny Adawlut are empowered to authorize and direct an occasional dispensation with the rule for periodical vacations, in the instance of any particular court wherein, from the arrear of business or other cause, it may appear expedient that the vacations thereby provided for, or either of them, should not take place.—Reg. I, 1806, sec. x.

NOTE.—No rules appear to exist for vacations of the criminal courts, but the closing of the civil courts involves the adjournment of the criminal, subject to any directions of the controlling authorities.

### LEAVE OF ABSENCE OF JUDGES AND MAGISTRATES.

110. Any zillah or city judge, or any magistrate who may be desirous of quitting his station, on whatever account, is to apply for permission to the Governor-General in Council; and, except in emergent cases of indisposition, is not to leave his station until such permission shall have been obtained and received. The letter of application is to specify the purpose for which the leave of absence is applied for; the period for which it is desired; and the name of the senior officer on the spot, to whom the charge of the office will devolve, if not otherwise provided for.—Reg. IV, 1796, sec. ii.

111. Previous, however, to any zillah or city judge, or any session judge or magistrate, being permitted by Government to quit his station, a reference shall be made to the Sudder Dewanny and Nizamut Adawlut to ascertain the state of the public business depending before such judge or

magistrate, and whether the leave of absence desired can be conveniently granted or otherwise.—Reg. II, 1801, sec. xv.

112. The Governor-General in Council will determine, in every instance wherein he may grant leave of absence to the judge or magistrate to quit his station, whether to delegate the temporary execution of the duties of judge or magistrate to the senior officer on the spot, or to appoint any other person by a special commission thereto, or to make other provision for carrying on such part of the business of the station, civil and criminal, as cannot be postponed, according to the urgency and circumstances of the case. The result of this determination will be immediately communicated to the judge or magistrate, and the person appointed to act for him; and notice of it is to be given at the same time to the Courts of Sudder Dewanny and Nizamut Adawlut..—Reg. IV, 1796, sec. iii.

113. The zillah or city judges or magistrates, to whom leave of absence may be granted, are to report their actual departure from their stations, as well as their return thereto, to the Governor-General in Council, and the Courts of Sudder Dewanny and Nizamut Adawlut.—Reg. IV, 1796, sec. iv.

### PRESERVATION OF RECORDS OF CIVIL AND CRIMINAL COURTS.

114. Two native keepers of the records shall be appointed to keep the Dewanny Adawlut and Foujdarry records in each Zillah and City Court, and in the Sudder Dewanny Adawlut and the Nizamut Adawlut.—Reg. XVIII, 1793, sec. ii.

115. The offices of keepers of the records are declared not to be hereditary.—Reg. XVIII, 1793, sec. iii.

116. The keepers of the records are to keep a register, in such languages as may be directed, of all the Dewanny and Foujdarry proceedings, documents, and other records belonging to the courts to which they may respectively be attached, in a book, each leaf of which shall be attested by the official signature of the judges and magistrates of the zillahs and cities, and the registers to the Sudder Dewanny Adawlut and the Nizamut Adawlut, and on the last leaf of which they shall specify in their own handwriting, the number of pages contained in the book.—Reg. XVIII, 1793, sec. iv.

117. The keepers of the records are to endorse upon the back of every paper or document which they may enter in the register, the number of the page in which it may be registered, and the endorsement is to be attested with the official signature of both or either of them.—Reg. XVIII, 1793, sec. v.

118. It shall be the duty of the keepers of the records to see that the records of the court are not destroyed by insects, damp, or otherwise, and that they are not removed without the orders of the court.—Reg. XVIII. 1793, sec. vi.

119. If any records entered in the register shall be destroyed in consequence of the neglect or any omission of the keepers of the records, or if any such records shall not be forthcoming, and they shall not be able to give a satisfactory account of them, they shall be liable to dismission from their offices.—Reg. XVIII, 1793, sec. vii.

120. The keepers of the records are to be careful to attend to any rules or orders respecting the duties of their office, that may be prescribed to them by any Regulation, and also to any directions that may be given to them by the court to which they may be attached, or the register thereof, for the better keeping, preserving, or registering the records.—Reg. XVIII, 1793, sec. viii.

121. The civil courts established in the several zillahs and cities are to keep a book in which the daily proceedings in each cause, and every order or act of the court are to be minuted in such language as may be directed, and attested with the signature of the judge. The plaint, answer, reply, and rejoinder of the parties, and every deposition, exhibit, and paper whatever, read and filed in each cause, is to be minuted and referred to in this book, by marks or numbers, corresponding to marks or numbers to be endorsed on each document when it may be read in the cause.—Reg. XVIII, 1793, sec. ix.

122. The judges of the civil and criminal courts are enjoined to be careful that the registers and books of proceedings, prescribed in the foregoing rules, are duly kept as therein directed, and that due attention be paid to the rules for preserving the original records of their respective courts.—Reg. V, 1798, sec. xvi.

### USE OF THE PERSIAN LANGUAGE.

123. It shall be lawful for the Governor-General of India in Council, by an order in council, to dispense, either generally, or within such local limits as may to him seem meet, with any provision

of any Regulation of the Bengal code which enjoins the use of the Persian language in any judicial proceeding, or in any proceeding relating to the revenue, and to prescribe the language and character to be used in such proceedings.—Act XXIX, 1837, sec. i.

124. It shall be lawful for the said Governor-General of India in Council, by an order in council, to delegate all or any of the powers given to him by this Act, to any subordinate authority, under such restrictions as may to the said Governor-General of India in Council seem meet.—Act XXIX, 1837, sec. ii.

### DUTIES OF MINISTERIAL OFFICERS OF THE CIVIL AND CRIMINAL COURTS.

125. The judges of the civil and criminal courts are empowered to assign to all ministerial officers attached to their several courts, the particular duties or business to be performed by them respectively.—Reg. XIII, 1793, sec. v.

## PUBLIC OFFICERS.

### APPOINTMENT, REMOVAL, AND PROCEDURE FOR MALVERSATION.

NOTE.—The subject of the appointment and removal of ministerial officers is involved in much perplexity, as Reg. V, 1804, and Reg. VIII, 1809, have not been repealed, though the effect of subsequent enactments and the abolition of the Provincial Courts of Appeal and Circuit, have wrought such important changes in their operation that it is extremely difficult to show what portions of either of those Regulations are still in force.

Reg. V, 1804, treated conjointly of the native public officers of the Judicial and the Revenue Departments. It virtually divided those officers into three classes—the first consisting of those whom it termed "Head Ministerial Officers," who were to be appointed and removed only under the authority of Government and to this class were added the law officers and kazis of towns; the second, of ministerial officers of lower grade, but receiving more than ten rupees a month, who were to be appointed and removed under the sanction of the Courts of Appeal and Circuit, or the Board of Revenue; the third, the inferior class, receiving less than ten rupees a month.

Reg. VIII, 1809, relieved the Government from the task of examining and approving the proceedings in the appointment and removal of all but the law officers, and it placed in the same category as to appointment and removal the ministerial officers of the Judicial and Revenue Departments, subjecting the proceedings of the Zillah Courts as well as those of the magistrates, to the supervision of the Provincial Court of Appeal and Circuit.

The suppression of the Provincial Courts of Appeal by Regs. V, 1831, and VII, 1832, and of the Courts of Circuit by Reg. VII, 1831, and Act VII, 1835, removed the intermediate authority between the Civil and the Sessions Courts of the Zillahs and the Sudder Courts, and there was no enactment transferring the control before exercised by that intermediate authority to the Sudder Courts. The matter was in truth so much one of merely official regulation, that it could not but be inconvenient that the details should be regulated by legislative enactment.

It appears that under the circumstances above stated, the Zillah judges have been declared by the controlling authority of the Sudder Court competent to remove the native ministerial officers and vakeels, without reporting and obtaining the previous sanction of the Sudder Dewanny Adawlut. (See *Circular Orders of the Calcutta and Western Courts, March* 2, 1832.—CIVIL GUIDE, paragraph 112, edition 1848.) It would seem to follow by an almost necessary consequence that the Sessions' judge must be vested with an equally independent authority in respect of his native ministerial officers.

In respect of the appointment and removal of the ministerial and police officers subordinate to the magistrates, it is declared by sec. iv, Act XXIV, 1837, that the Superintendent of Police shall exercise all the powers which were vested in the Commissioners of Circuit, that is, the powers formerly exercised by the Courts of Circuit. As the Sessions judges now take the place of the Commissioners of Circuit under the operation of Act VII, 1835, it would seem to follow that the Superintendent of Police would exercise his authority in this branch of his duty rather according to the spirit than under the actual letter of the rules of Regs. V, 1804, and VIII, 1809.

The confirmation of appointments and resignations of the officers of the Revenue Department appears still to be vested in the Revenue Boards.

Viewing the effects of the changes above referred to, it has seemed to be desirable to separate the rules which relate respectively to the Law Officers, the Ministerial Officers in the Judicial Department, and those in the Revenue Department.

### LAW OFFICERS.

126. The Cauzy-ool-Coozat and the law officers of the Sudder Dewanny Adawlut and Nizamut Adawlut are to be appointed by the Governor-General in Council, and shall not be removable but for incapacity or misconduct in the performance of their public duty or for any act of flagrant profligacy in their private conduct proved to his satisfaction.—Reg. XII, 1793, sec. ii; Reg. VIII, 1809, sec. iii; Reg. XXXIX, 1793, sec. ii; Reg. XI, 1826, sec. iii.

127. The law officers of the Sudder Dewanny Adawlut shall be the law officers of the Nizamut Adawlut.—Reg. XII, 1793, sec, iv.

128. The Governor-General in Council shall appoint as many law officers to the Courts of Nizamut Adawlut as the state of business in each may appear to render requisite.—Reg. VI, 1832, sec. vi.

129. The law offices in the several Courts are to be conferred on persons well versed in the laws and of unblemished character.—Reg. XII, 1793, sec. iii.

130. Any person may be appointed to be a Hindoo or Mahomedan law officer in any of the courts of justice under the presidency of Fort William in Bengal, who shall have successfully passed through such an examination as the Government of the said presidency shall from time to time prescribe.—Act V, 1845.

131. The law officers of the Zillah and City Courts are to be appointed by the Governor-General in Council. The Sudder Court is empowered to confirm their removal and resignation. —Reg. XII, 1793, sec. ii; Reg. VIII, 1809, sec. iv, cl. 1; Reg. XI, 1826, sec. iv, cl. 1.

132. Whenever a law officer of any of the courts of justice shall be desirous of resigning his office, the judge shall receive such resignation in open court and record the same.—Reg. V, 1804, secs. v and x.

133. Whenever a Zillah or City Court may see cause for the removal of a law officer, on the ground of any misconduct or neglect of duty, experienced incapacity, or other disqualification, such court shall report the circumstances of the case, with its opinion on the subject, to the Sudder Dewanny Adawlut, who will pass such order on the report so made as may appear to be proper, or will call for any additional information, or direct any further inquiry, which the nature and circumstances of the case may require.—Reg. VIII, 1809, sec. iv, cl. 2.

134. In cases in which a law officer of any of the courts of justice may have been guilty of such gross misconduct as to require his immediate suspension from the exercise of his functions, the judge is empowered to suspend him until his case shall have been finally disposed of.—Reg. V, 1804, secs. vi, x, and xvii.

135. Whenever a law officer may be removed from his station, or whenever a vacancy may occur in the office of law officer in any of the courts of justice from death, resignation, or otherwise, the judge or judges of the court in which the removal or vacancy may have occurred, shall nominate for the approbation of the Governor-General in Council, a person duly qualified to succeed to the station so vacated, and shall at the same time report fully the past employments, character, qualifications and age of the proposed successor. The Governor-General in Council, on consideration of such report, or after calling for any further information that may appear necessary, will either confirm the person so nominated to fill the vacated office, or will issue orders for his examination, or appoint any other person whom he may deem better qualified for the office.—Reg. XI, 1826, sec. iv, cl. 2.

*Law Officers Occasionally Appointed.*

136. The Governor-General in Council, or the Nizamut Adawlut, may specially appoint any competent individual of the Mahomedan persuasion to officiate as law officer in any Sessions Court whenever such arrangement may appear desirable or necessary from the absence of the proper law officer, or other cause, though such individual be not at the time of such special nomination regularly attached to any court as law officer, nor holding any public office under Government, and in all such cases the trials held shall be in every respect and to all intents and purposes as good and valid as they would have been had the futwas therein been delivered by the Mahomedan law officer attached to the Sessions Court in which such trials were held.—Reg. IV, 1830, sec. ii.

137. Whenever, from the absence of the proper law officer, or other emergency, the services of an officiating law officer may be necessary to carry on the duties of the sessions, and there may not be sufficient time, without inconvenience, to make a previous reference on the subject to the Nizamut Adawlut, it shall be competent to the Session judge to employ a duly qualified individual, of the Mahomedan persuasion, to officiate as law officer; a special report of such temporary arrangement being immediately made in each instance for the information and orders of the Nizamut Adawlut.—Reg. IV, 1830, sec. iii.

*Cauzies of Towns.*

138. The cauzies stationed in the cities, towns, or pergunnahs in the three provinces, shall not be removable from their offices, except for incapacity or misconduct in the discharge of their public duty, or acts of profligacy in their private conduct.—Reg. XXXIX, 1793, sec. iii, cl. 1.

139. The rule contained in the preceding paragraph is not to be construed to preclude the Governor-General in Council from abolishing the office of cauzy at any place where, from the number of cauzies stationed in the district or other cause, the continuance of such an officer may appear to him unnecessary.—Reg. XXXIX, 1793, sec. iii, ch 2.

140. When the office of cauzy in any pergunnah, city, or town, shall become vacant, the judge of the Zillah or City Court, within whose jurisdiction the place may be situated, is immediately to report the vacancy to the Sudder Dewanny Adawlut, and recommend such person as may appear to him best qualified for the succession from his character and legal knowledge. The name of the person so recommended is to be communicated to the head cauzy, who, if he shall deem him unqualified for the office, either from want of legal knowledge or the badness of his private character, is to

report the same in writing to the Sudder Dewanny Adawlut. If there shall appear to the head cauzy no objection to the appointment of the person who may be so recommended, he is to report accordingly to the Sudder Dewanny Adawlut. The person who may be appointed to the office shall be furnished with a sunnud of appointment, under the official seal of the head cauzy, in which the date of his appointment is to be specified.—Reg. XXXIX, 1793, sec iv; and Reg. VIII, 1809, sec. iv, cl. 2.

141. The office of cauzy is declared not to be hereditary.—Reg. XXXIX, 1793, sec. v.

142. The Zillah and City Courts are to report to the Sudder Dewanny Adawlut every instance in which it may appear to them that the cauzy of any pergunnah, city, or town, within their respective jurisdictions, is incapable, or in which it may be proved to their satisfaction that he has been guilty of negligence or misconduct in the discharge of his public duty, or of acts of profligacy in his private conduct.—Reg. XXXIX, 1793, sec. vi, cl. 1; and Reg. VIII, 1809, sec. iv, cl. 2.

143. It shall likewise be the duty of the head cauzy to report to the Sudder Dewanny Adawlut, in writing, every instance in which it may appear to him that the cauzy of any city, town, or pergunnah is incapable, or in which such cauzy may have been guilty of misconduct in the discharge of his public duty, or acts of profligacy in his private conduct.—Reg. XXXIX, 1793, sec. vi, cl. 2; Reg. VIII, 1809, sec. iv. cl. 2.

144. The Court of Sudder Dewanny Adawlut is empowered to confirm the removal and resignation of the cauzies of cities, towns, and pergunnahs, on receiving the reports prescribed.—Reg. VIII, 1809, sec. iv, cl. 1.

145. Whenever a Zillah or City Court may see cause for the removal of a cauzy, on the ground of any misconduct or neglect of duty, experienced incapacity, or other disqualification, such court shall report the circumstances of the case to the Sudder Dewanny Adawlut, who will pass such order on the report so made as may appear to be proper, or will call for any additional information, or direct any further inquiry, which the nature and circumstances of the case may require.—Reg. VIII, 1809, sec. iv, cl. 2.

### NATIVE MINISTERIAL OFFICERS—JUDICIAL.

146. The Sudder Courts and the Zillah Courts shall exercise the power of appointing, removing and accepting the resignation of the principal native ministerial officers acting under them respectively, as well as any other native officers on their respective establishments.—Reg. VIII, 1809, sec. iii.

147. Whenever the head ministerial native officers of the Courts of Sudder Dewanny Adawlut and Nizamut Adawlut, of the Zillah and City Courts, of the Courts of Sessions in the several zillahs and cities, including the keepers of the records, or any other native officers of the Courts of Judicature, whose salary or other allowance may amount to ten rupees per mensem or upwards, shall be desirous of resigning their offices, the above authorities are required to receive and record such resignations in their public cutcherries; and whenever the Courts of Sudder Dewanny Adawlut and Nizamut Adawlut shall receive reports from the Zillah and City Courts, inclosing the resignations of their native ministerial officers, they will pass such decision thereupon as they shall see fit.—Reg. V, 1804, secs. v, viii, x, xv, and xvi; Reg. VIII, 1809, sec. iii.

148. Whenever the authorities specified in the preceding paragraph may see cause for the removal of their native ministerial officers, of the description of those above mentioned, on the ground of misconduct, incapacity, or otherwise, they shall communicate to such officer the grounds upon which they consider him undeserving of continuance in his station, and call upon him to state what he may have to offer in his defence.—Reg. V, 1804, sec. vi; Reg. VIII, 1809, sec. iii.

149. It is declared that an order of Government shall be sufficient without a new Regulation, to extend the above provisions to any offices now subsisting, or which may be hereafter instituted in the judicial department.—Reg. V, 1804, sec. xix.

150. All ministerial officers of the courts of moonsiffs, sudder ameens, and principal sudder ameens, shall be nominated and appointed by those courts respectively, subject to the general control of the zillah and city judges and Court of Sudder Dewanny Adawlut, within whose jurisdiction the said courts may be situated.—Act XXV, 1837, sec. xii.

151. The nazirs of the several Courts of Judicature, civil and criminal, shall be allowed, as heretofore, to appoint their own naibs, and the mirdahs and peons, or any similar descriptions of public servants employed under their immediate direction and control, and to fill up all vacancies which, from time to time, may occur in such appointments, subject to the approbation of the judges and magistrates superintending the courts to which they are attached. They are to enter into a penal obligation in such sum as may be required by the courts to which they are attached, for the good behaviour of the naibs, mirdahs, and peons whom they may appoint. They may also as hitherto, remove the persons so appointed by them, provided they can state sufficient cause to the satisfaction of the judge and magistrate, but not without his previous knowledge and sanction.—Reg. XIII, 1793, sec. ii; Reg. V, 1804, sec. xii.

152. Nothing in Regulation VIII, 1809, shall be construed to preclude the Governor-General in Council, or the Courts of Sudder Dewanny Adawlut and Nizamut Adawlut, from ordering the removal of a native officer, upon just and sufficient ground appearing for such order. Nor is any part of that Regulation meant to prevent the exercise of the general authority vested in the Courts of Sudder Dewanny Adawlut and Nizamut Adawlut by the Regulations in force.—Reg. VIII, 1809, sec. xiii.

NOTE.—For rules relating to the native ministerial officers of magistrates, see "POLICE," paragraph 32 and following.

### NATIVE MINISTERIAL OFFICERS—REVENUE.

153. The Boards of Revenue, Customs, Salt, and Opium, shall exercise the power of appointing, removing, and accepting the resignation of all native officers on their respective establishments. —Reg. VIII, 1809, sec. iii, and sec. x, cl. 3.

154. Whenever the principal native officers employed under the secretaries to the Board of Revenue, or the head native officers of the collectors of the land revenue, (including the keepers of revenue records, the tehseeldars for the collection of the revenue in Bengal, Behar, and Orissa, and the khezanchees) and of the customs, or of the agents for the provision of salt and opium, or any other native revenue officers receiving an allowance of ten rupees per mensem, or upwards, shall be desirous of resigning their offices, the above mentioned authorities are required to receive and record such resignations in their public cutcherries; and whenever the Boards of Revenue, Customs, Salt, or Opium may receive any reports from the collector, or agents under their authority respectively, they will pass such decision thereupon as they shall see fit.—Reg. V, 1804, secs. v, viii, x, xv, xvi, and xix; Reg. VIII, 1809, sec. x, cl. 3.

155. Whenever the authorities above mentioned may see cause for the removal of any of their native officers of the description mentioned in the preceding paragraph on the ground of misconduct, incapacity, or otherwise, they shall communicate to such officer the grounds upon which they consider him undeserving of continuance in his station, and call upon him to state what he may have to offer in his defence, and they shall also report the circumstances of the case, with their opinion on the subject, to the Board of Revenue, Customs, Salt, or Opium, as the case may be, who will pass such orders thereupon as they shall see fit, or will call for any additional information, or direct any further inquiry, which the nature and circumstances of the case may require.—Reg. V, 1804, secs. vi and xvi; Reg. VIII, 1809, sec. x, cl. 4.

156. In cases wherein any of the native officers above described may have been guilty of gross misconduct, such as to require his immediate suspension from the exercise of the functions of his station, the officer under whose authority he may be employed is empowered to suspend him, and if requisite for the public business, to nominate another person duly qualified to act in his place, until the orders of the Superior Board can be obtained upon the case. But such suspensions and nominations are to be reported, with the least possible delay, for the information and orders of the Board of Revenue or Customs, according to the proper department.—Reg. V, 1804, secs. vi and xvii.

157. The tehseeldars in the province of Benares, and the provinces ceded by the Nawaub Vizier being responsibly employed in the collection of the public revenue, they shall not be liable to suspension under the preceding paragraph, except by order of the Board of Revenue, or the collectors; and the nomination of persons to fill vacancies in the office of tehseeldar in the above provinces, shall be made by the collectors to the Board of Revenue.—Reg. V, 1804, sec. x.

158. Whenever an actual vacancy shall occur in the station of any of the native officers described above, from death or other cause, and whenever any vacancy shall occur by the resignation or removal of any such officer under the sanction or orders of the Board of Revenue, the authorities before specified, in whose immediate department such removal or vacancy may occur, shall nominate, for the approbation of the Board of Revenue, a person duly qualified to succeed to the station so vacated; and shall, at the same time, report fully any information obtained of the past employments, character, and qualifications of the proposed successor. The Board of Revenue, on the receipt of such reports, or after calling for any further information that may appear necessary, are authorized to confirm the person nominated to fill the vacant office, or to direct that a further nomination be made for their approval.—Reg. V, 1804, sec. xviii.

159. It is declared that an order of Government shall be sufficient authority, without a new Regulation, to extend the above provisions to any offices now subsisting, or which may be hereafter instituted in the Revenue department, though not within the exact denomination of the offices described in this Regulation.—Reg. V, 1804, sec. xix.

160. The collectors of land revenue and customs, and the agents for the provision of salt and opium, are authorized to administer an oath or affirmation to any witnesses whom it may be necessary to examine respecting the conduct of any native officer employed under them respectively. Provided that, if any witness shall refuse to take the oath or affirmation required from him, he shall

be sent to the judge of the Zillah or City Court to be confined as prescribed by the Regulations in similar cases.—Reg. VIII, 1809, sec. x, c. 5.

161. The naib nazirs, the mirdahs, peons, jemadars, and burkundauzes, or other similar descriptions of public servants employed in the revenue department, or in the departments of salt and opium, shall be allowed to fill up all vacancies which may occur in the offices of the public servants employed under their immediate direction and control, and they may also remove the persons so appointed by them.—Reg. V, 1804, sec. xiii.

NOTE.—Act XII, 1850, prescribes security to be taken from all "public accountants;" and Act XIII of that year provides for the punishment of breaches of trust by public servants. Regulation II, 1813, prohibits the use of public money by native officers.—Those enactments must be consulted in carrying out the intentions of the following paragraphs.—*See paragraphs* 169 *to* 177, *and* 197 *to* 213.

162. The collectors are to take security for the personal appearance of the tehseeldars, sezawuls, ameens, serishtadars, moonshees, mohurrers, and all native officers entrusted with the receipt or payment of public money or the charge of public accounts, who now are, or may be hereafter employed under them, in their capacity of collectors of the revenue. The surety is to bind himself to produce the officer for whom he may become security before the collector, whenever his attendance may be required, until he shall be discharged from the public service, and shall have received a writing from the collector, signifying that he has no demand upon him on the part of Government, either for money, papers, or accounts belonging to the public, that may have been committed to him or come into his possession in his official capacity; and further, that in the event of his not producing such officer, he will be responsible for all demands that the collector may have upon him for public money, papers, or accounts, and be liable to be proceeded against in every respect in the same manner as the officer himself, had he been forthcoming. When any such officer is removed or resigns, the collector is to grant him an acquittal to the above effect, after he shall have delivered up all public papers, accounts or money that may have been committed to his charge. The collectors may require such officers to give new sureties, in cases in which they may have ground to believe that the former sureties, whether admitted by themselves or their predecessors, are not responsible.—Reg. III, 1794, sec. xv.

163. If a collector shall have a claim, on the part of Government, on any of the native officers described in the preceding paragraph, for a balance of accounts, or money or papers belonging to Government, he is to require the payment of the money, or the delivery of the papers, by a writing under his official seal and signature, and the signature of his head native officer of his dufter for the time being, specifying the amount of the money, or the particular papers required, and the date and place that may be fixed for the delivery of the money or papers. If the officer shall not discharge the money or deliver up the papers by the limited time, the collector is empowered to apprehend him, and convey him to the gaol of the Dewanny Adawlut of the zillah, the judge of which court shall detain him in confinement until the sum demanded of him shall be discharged, or he shall have delivered up the papers. The collector is authorized, likewise, to attach such part of the real or personal property belonging to the officer, as may be sufficient to make good the sum which may be due from him. If his property shall be in another zillah, he is to apply to the collector of that zillah, who shall cause it to be attached. If the property shall be within the cities of Patna or Moorshedabad, the collector is to apply to the judge of the zillah, through the vakeel of Government, to make application to the judge of such city to attach and deliver it into the charge of the nearest collector. The Board of Revenue are empowered to order the property to be sold, under the rules by which the lands of proprietors are directed to be disposed of for the discharge of arrears of revenue. In the event of the death of any such officer, the surety is to be exonerated from all responsibility, and the collector is to proceed against his heirs, by a regular suit in the court to which they may be amenable, for any claims which Government may have upon the deceased. The suit is to be carried on by the vakeel of Government, and at the public expense, and the rules in Regulation XIV, 1793, regarding suits so carried on by the collectors, are to be held applicable to it.—Reg. III, 1794, sec. xvi.

164. If any such native officer, who may have retained public money or papers in his possession shall abscond or not be forthcoming, the collector may proceed against the surety upon his engagement, or apprehend the offender and commit him to prison, if he be within the limits of the zillah; or if he shall have taken refuge in any other zillah, or in either of the cities of Patna or Moorshedabad, and the collector shall deem it necessary to require his personal attendance that he may proceed against him instead of his surety, the collector is to apply to the judge of the zillah to request the judge within whose jurisdiction the officer may be or reside, to cause him to be apprehended. The judge to whom the application may be made is to convey the officer in safe custody to the gaol of the zillah from which he may have absconded.—Reg. III, 1794, sec. xvii.

165. If a collector shall have occasion to require any such officer to attend to adjust his accounts, that the sum due from him may be ascertained, and he shall not attend upon being required by a writing to that effect, under the official seal and signature of the collector, to be fixed

up in his cutcherry, and at the place in the zillah at which the officer may have last resided, the collector is empowered to prepare the most accurate statement that he may be able of the money or papers in the possession of such officer, and proceed against the surety, upon his engagement, for the balance or papers, in the same manner as if the accounts had been adjusted, and the list of the papers prepared in the presence of the officer; or he may cause the officer to be apprehended by his own authority, under paragraph 163, if he be within the limits of the zillah, or if he shall have taken up his abode, in any other zillah, or in either of the cities of Patna or Moorshedabad, by application to the judge, in the manner directed in paragraph 164. If it should afterwards appear, upon inquiry before the court, that no part, or a portion only, of the sum demanded was due from him, or that the papers required were not in his possession, the collector shall not be liable to pay any damages for having confined him, and all costs that may be incurred in the suit or inquiry shall be paid by the officer.—Reg. III, 1794, sec. xviii.

166. If any such officer or his surety shall be confined on account of a claim for public money, and previous to the sale of his property, or supposing the collector not to have been able to get possession of any property belonging to him at any time subsequent to his confinement, shall deny the justness of the whole or any part of the demand made upon him by the collector and find some responsible person who will become security that he will institute a suit in the court in fifteen days against the collector to try the demand, and to pay the sum that may be awarded against him, with costs and interest at the rate of twelve per cent. from the date on which the sum may be demanded of him to the date of the decree, the court is to discharge the officer or surety, and proceed to the trial of the suit; and if any property belonging to the officer or surety shall have been ordered to be sold, the sale shall be countermanded, and the property restored to the owner.—Reg. III, 1794, sec. xix.

167. If any such native officer or his surety shall be committed to custody by the collector, and shall not obtain his release in the mode specified in the preceding paragraph, he shall nevertheless be at liberty, whilst in confinement, to sue the collector by whom he may have been confined, should he deem the demand upon him unjust.—Reg. III, 1794, sec. xx.

168. The collectors are to appoint one of the authorized vakeels of the courts to defend any suits which may be instituted against them by any such native officer, or their heirs or sureties, under this Regulation; and all the rules in Regulation XIV, 1793, regarding suits instituted against the collector for sums demanded or received by him on behalf of Government, and which are not repealed by this Regulation, are to be considered applicable to such suits.—Reg. III, 1794, sec. xxi.

169. Khazanchies, tehseeldars, and other native officers intrusted with the charge of public money, are hereby strictly prohibited from making use of such money for their own advantage or that of any other individual.—Reg. II, 1813, sec. ii.

170. Any person infringing the rule contained in the foregoing paragraph shall be deemed to have been guilty of a misdemeanor, and shall be punished, on conviction thereof, before a Sessions Court, at the discretion of the said court, under the authority vested in the Sessions Courts by clause 7, sec. ii, Regulation LIII, 1803, in cases liable to discretionary punishment: provided, nevertheless, that no person convicted of the offence specified in the preceding paragraph shall be sentenced by a Sessions judge, to the punishment of stripes or to hard labour. If in any instance imprisonment for the term of seven years shall appear to the Sessions judge to be an inadequate punishment for the offence, he shall transmit the trial, with his sentiments thereupon, to the Court of Nizamut Adawlut, for the final sentence of that court.—Reg. II, 1813, sec. iii.

171. It shall be the duty of the Board of Revenue to submit to Government a special report respecting all convictions and sentences which may take place under the provisions of the present Regulation, in order that the Governor-General in Council may have an opportunity of considering whether the guilty persons should not also be declared incapable of again serving Government in any public capacity.—Reg. II, 1813, sec. iv.

### *Public Accountants.*

172. Every public accountant shall give security for the due discharge of the trusts of his office, and for the due account of all moneys which shall come into his possession or control by reason of his office.—Act XII, 1850, sec. i.

173. In default of any Act having special reference to the office of any public accountant, the security given shall be of such amount and kind, real or personal, or both, and with such sureties (regard being had to the nature of the office), as shall be required by any rules made or to be made from time to time by the authority by which each public accountant is appointed to his office, subject to the approval of the Governor or Governor in Council of the presidency or place.—Act XII, 1850, sec. ii.

174. Every person is a public accountant within the meaning of this Act, who, by reason of any office held by him in the service of the East India Company, is intrusted with the receipt, custody, or control of any moneys or securities for money, or the management of any lands belonging to the East India Company, or as official assignee or trustee, or as surberakar, or in any other official capacity, with the receipt, custody, or control of any moneys or securities for money, or the management of any lands belonging to any other person or persons.—Act XII, 1850, sec. iii.

175. The person or persons at the head of the office to which any public accountant belongs, may proceed against any such public accountant and his sureties for any loss or defalcation in his accounts, as if the amount thereof were an arrear of land revenue due to Government.—Act XII, 1850, sec. iv.

176. All Regulations and Acts now or hereafter to be in force for the recovery of arrears of land revenue due to Government, and for recovery of damages by any person wrongfully proceeded against for any such arrear, shall apply, with such changes in the forms of procedure as are necessary to make them applicable to the case, to the proceedings against and by such public accountant.—Act XII, 1850, sec. v.

177. All sales of estates, summarily sold before the passing of this Act, in satisfaction of the security bonds of any public accountants within the meaning of this Act, shall be deemed as good and valid, and be as liable to be reviewed and annulled as if such estates had been sold under authority of this Act, and no further or otherwise.—Act XII, 1850, sec. vi.

NOTE.—For Canongoes and Putwarries see "LAND REVENUE."

### RULES APPLICABLE TO ALL NATIVE OFFICERS OF GOVERNMENT.

178. In cases of gross misconduct, neglect, or incapacity, such as to require the immediate suspension of any native public officer of the Government, the officer under whose authority such native officer may be placed is authorized to order the same. He may also, in addition to the general powers vested in him by the Regulations for the punishment of any specific crime or misdemeanor, fine any such native officer under his authority for neglect of duty, in a sum equal to one month's salary, and cause the same to be levied by a stoppage of the fixed allowance payable to such officer. And it is hereby declared, that native officers of every denomination, in the service of Government, will be liable to removal from the public trusts committed to them without proof of any specific act of criminality, whenever there may be sufficient reason to believe them incapable or neglectful of their prescribed duties, or in any respect unworthy of public confidence.—Reg. VIII, 1809, sec. v, cl. 5, and sec. ix.

179. Any future removals and appointments of the native officers described in this Regulation, and receiving an allowance of ten rupees per mensem or upwards, which may be sanctioned by the Governor-General in Council, or by the Courts of Sudder Dewanny Adawlut and Nizamut Adawlut, or the Board of Revenue, shall be communicated to the civil auditor, for the purpose of making the requisite alteration in the book of civil establishments.—Reg. V, 1804, sec. xxi.

180. The several authorities and officers referred to in this Regulation, who may hereafter have accounts to render to the accountant-general, or to the accountants in the judicial and revenue departments, or to the civil auditor, which by the rules and orders now in force, or by such as may be passed in future, are or may be required to be accompanied with detailed statements of the establishments of native officers, shall uniformly insert in such statements the names of the native officers actually employed, and receiving an allowance of ten rupees per mensem, or upwards, as sanctioned by the Governor-General in Council or by the Sudder Dewanny Adawlut and Nizamut Adawlut or by the Board of Revenue, under the provisions contained in this Regulation.—Reg. V, 1804, sec. xxii.

181. The several officers of Government in the judicial and revenue departments, and in the department of salt, opium, and customs, who are already restricted by their official oaths, or by the known declarations and orders of Government, from deriving any personal advantage whatever from their fixed establishments of native officers, are further hereby positively prohibited from making any alteration whatever in the distribution of the salaries of such officers, or in the number and designation of the several descriptions of native officers, which now compose, or may hereafter compose, their authorized establishments, without the express sanction of the Governor-General in Council.—Reg. V, 1804, sec. xxiii.

182. Nothing in the Regulations shall be construed to establish a claim of inheritance to any public office whatever, or to prevent the abolition of any such office by order of the Governor-General in Council, whenever he may judge it unnecessary to continue the same for the public service.—Reg. V, 1804, sec. xxiv.

*Officers receiving less than ten rupees per mensem.*

183. Any inferior native officers forming part of the fixed establishments of the Zillah and City Courts, civil or criminal, or of any officers acting under the authority of the zillah and city judges and magistrates, or of any other court or office in the judicial department; or forming part of the fixed establishments of the collectors of the revenue, of any officers acting under the authority of the collectors of the revenue, or of any other office in the revenue department; or forming part of the fixed establishments of the agents for the provision of salt and opium, or the collectors of the customs, and of any officers acting under the authority of these officers, or of any other office in the departments of salt, opium, and customs (provided that the salary, or other allowance of the several inferior officers herein referred to shall not amount to the sum of ten rupees per mensem), may be appointed whenever vacancies occur in the stations of such officers; and on proof of misconduct, or other sufficient cause, may be removed, without any reference to any superior authority, by the public officer on whose establishment they are entertained. The whole of the officers herein described, however, are directed to record upon their proceedings the grounds upon which any native officers may be removed by them, and are required to exercise the power vested in them, in the appointment and removal of the inferior officers acting under them respectively, with due regard to the public service and the rights of individuals, by selecting proper persons to fill all vacancies in the situations of such officers, and by continuing in office the persons appointed, whether by themselves or their predecessors, whilst they discharge the duties assigned to them with diligence and integrity.—Reg. V, 1804, sec. xiv.

EUROPEAN OFFICERS.

184. The judges and magistrates of the Zillah and City Courts, and the Sessions Courts, and their assistants, or other officers being covenanted servants of the Company, and the collectors of the revenue and their assistants, are prohibited lending money, directly or indirectly, to any proprietor or farmer of land, or dependent talookdar, or under-farmer or ryot, or their sureties, and all such loans as have been made in opposition to the repeated prohibitions of Government, or which may be hereafter made, are declared not recoverable in any court of judicature.—Reg. XXXVIII, 1793, sec. ii.

185. No person being a creditor of any zillah or city judge or magistrate, of any collector of the land revenue or customs, or of any agent for the provision of salt or opium, shall be appointed to any official situation on the establishment of the person whose creditor he may be. It shall consequently be the duty of the Boards of Revenue of the Zillah and the Sudder Courts, on receiving the reports prescribed by the provisions of Regulation VIII, 1809, to satisfy themselves fully that the natives recommended to fill any vacancies on the establishment of the European officers acting under their control, respectively, are not the creditors of the latter. With this view, it will be the duty of the said boards and courts to make full inquiries on the subject, not only from the officers from whom such reports may be received, but through such other channels as may be necessary to guard against any infringement or evasion of the provisions of the present Regulation.—Reg. XXI, 1814, sec. ii.

186. The rules contained in the preceding paragraph for precluding the creditors of the public officers above mentioned from being employed on their public establishments shall be considered equally applicable to the relatives and dependents of such creditors: the former as well as the latter shall consequently be equally precluded from being employed on the establishments of any of the public officers above described.—Reg. XXI, 1814, sec. iii.

187. Any native causing himself to be appointed to any office in opposition to the provisions of the two preceding paragraphs, or in any way knowingly accepting office in contravention thereof, shall forfeit to Government a sum equal to ten times the yearly salary or allowances attached to the situation to which he may be appointed.—Reg. VII, 1823, sec. vii.

188. All covenanted civil servants, in whatever department of the public service they may be employed, are prohibited, under pain of dismissal from office, from borrowing money from, or in any way incurring debt to any native officer under their authority, or under the authority of any of their subordinate functionaries, or from or to the known surety, agent, relation, connection, or dependent of any such native officer, or from or to any person of whom such native officer may be known to be or to have been the servant, agent, surety, or dependent.—Reg. VII, 1823, sec. ii, cl. 1.

189. In like manner and under the like penalty, all officers of Government, being covenanted civil servants, are prohibited from borrowing money from, or in any way incurring debt to any manager, guardian, executor, ameen, sezawul, gomashtah, farmer, motuwullee, or other person,

who may in any way be officially accountable to them, or from or to the known surety, agent, relation, connection, or dependent of such person.—Reg. VII, 1823, sec. ii, cl. 2.

190. All judges of Zillah and City Courts, all magistrates, joint magistrates, and assistants to magistrates, all collectors and deputy collectors of the land revenue, all assistants to such collectors or other officers exercising the powers of such collector, are prohibited, under pain of dismissal from office, from borrowing money from, or in any way incurring debt to any zemindar, talookdar, ryot, or other person possessing real property, or residing in, or having a commercial establishment within the city, district, or division to which their authority may extend.—Reg. VII, 1823, sec. iii.

191. All persons are prohibited from lending money, or otherwise becoming in any way creditors to any officer of Government, being a covenanted civil servant, in contravention of the above rules: and any person lending money, or in any way becoming creditor to any such public officer in breach of this prohibition, shall forfeit to Government a sum equal to the amount for which he shall have so illegally become creditor.—Reg. VII, 1823, sec. iv.

192. If any covenanted servant, who may be appointed to any office, shall at the time of such appointment be indebted to any person with whom it would be illegal for him to contract a loan while holding such office, it shall be incumbent on such servant, before entering on the duties of the office, to make known the circumstance to the Governor-General in Council; and failing to do so, he shall be subject to the same penalty as if the debt had been contracted subsequently to his being appointed to the said office.—Reg. VII, 1823, sec. vi.

193. Suits for the recovery of penalties incurred under this Regulation shall and may be instituted under the special instructions of the Governor-General in Council, and shall be conducted by such other officer as Government may nominate for that purpose; such suits shall be instituted in the Zillah Court of the division within which the transaction may have taken place, or the lender may reside, or may possess real or personal property. An appeal shall lie from judgments passed in such cases, in like manner as from other judgments passed in original suits, by the Zillah Courts; and the judgments shall be enforced under the provisions of the Regulations for the execution of other decrees of the civil courts.—Reg. VII, 1823, sec. viii.

194. The whole of the officers of Government employed in the judicial department, civil or criminal, are prohibited, under penalty of dismissal from office, from employing, directly or indirectly, their private servants, of whatever description, or any other persons, not being public officers duly appointed or nominated in conformity with the rules in force relative to such appointments, in the discharge of any part of their public duties, or in the execution of any public duty in which the person so employed may not have been duly authorized to act.—Reg. VIII, 1825, sec. ii, cl. 1.

195. The whole of the judicial officers are in like manner, and under the same penalty, prohibited from employing any of the public officers on their establishments, not being peons, or other inferior servants, in personal attendance upon a judge, magistrate, or other officer of Government in the judicial department, in the performance of any part of their private business, or in the execution of any private trust relating to their personal concerns.—Reg. VIII, 1825, sec. ii, cl. 2.

196. The Sudder Court is empowered to suspend from office any judge of a City or Zillah, or Sessions Court, or any zillah or city magistrate for wilful disobedience, or neglect of any process, rule, or order of the court, or for a false return thereto, as well as in cases of disobedience, or neglect, or false return by a zillah or city magistrate to any process, rule, or order, of a Sessions judge, and in the last-mentioned cases the Sessions judges are directed to report immediately such disobedience, neglect, or false return to the Sudder Nizamut Adawlut. Such suspension is to be notified within ten days, with all papers and proceedings relating thereto, for the determination of the Governor-General in Council. The Sudder Court is also authorized on receiving reports as prescribed in the Regulations, of neglect or misconduct (other than corruption or extortion, for which special rules are established) of any ministerial officers of the courts or magistrates who may be covenanted servants of the Company, to make such inquiry as may be judged necessary in explanation of the circumstances stated, and if the case appear to require the notice of the Governor-General in Council, to report the same to him, with a copy of all proceedings and papers received on the subject of it, for such orders as may be judged proper. The Sudder Court is directed to report to the Governor-General in Council all instances of wilful neglect of duty or aggravated misconduct by a covenanted servant of the Company employed in any of the civil or criminal courts, whether in a judicial or ministerial capacity; and whether such neglect or misconduct may have been reported to the Sudder Court, Zillah or City Court, or by a Sessions judge or magistrate, or may otherwise appear from the proceedings and papers before the court. But if the case should appear to the court to involve an error of judgment only, or a slight default for which an admonition from the court may be deemed a sufficient correction, the Sudder Court in the former case, is authorized to notice the error for the information and guidance of the party who may have committed it, or in the latter case, to advise him of his default and to admonish him accordingly.—Reg. VI, 1793, sec. xiii; Reg. II, 1801, secs. vii and xiv.

BREACHES OF TRUST.

197. Every person employed in the public service of Her Majesty, or of the East India Company, and intrusted by reason of such employment with the receipt, custody, or control of any chattel, money, or valuable security, who shall embezzle the same, or any part thereof, or in any manner fraudulently apply, use, or dispose of the same, or any part thereof, for any purpose other than a purpose to which the same is applicable under the trust reposed in him, shall be deemed to have feloniously stolen the same.—Act XIII, 1850, sec. i.

198. All official trustees, assignees, and receivers of money, by virtue of their several offices or appointments, all justices of the peace, coroners, and other persons receiving by virtue of their offices or appointments any fines, forfeitures, penalties, or other monies, on behalf of Her Majesty or of the East India Company, all sheriffs, under sheriffs, bailiffs, officers, and other persons employed to levy money in execution of the judgment or order of any court, or in receiving any taxes or other moneys directed to be levied by any Regulation of the Governor-General in Council or by any Act of the Governor-General of India in Council, and also all subordinate officers and servants employed in the office or service of any of the persons hereinbefore enumerated, and intrusted with money in the course of such employment, are declared to be persons employed in the public service within the meaning of this Act; but this special enumeration of some of the persons included in the general description of persons in the publice service of Her Majesty or the East India Company, shall not be taken to abridge the meaning of that general description.—Act XIII, 1850, sec. ii.

199. The clauses respectively numbered 99, 100, 101, 102, 103, and 104 in an Act of Parliament passed in the ninth year of the reign of King George the Fourth, intituled "An Act for improving the administration of Criminal Justice in the East Indies," are repealed, except as to all things done or forborne to be done before the passing of this Act.—Act XIII, 1850, sec. iii.

200. Every clerk or servant who shall steal any chattel, money, or valuable security belonging to, or in the possession or power of his master, shall be punishable in the same manner as persons convicted of felonious stealing under this Act.—Act XIII, 1850, sec. iv.

201. Every clerk or servant, or any person employed for the purpose, or in the capacity of a clerk or servant, who shall, by virtue of such employment, receive or take into his possession any chattel, money, or valuable security, for or in the name or on the account of his master, and who shall fraudulently embezzle the same, or any part thereof, shall be deemed to have feloniously stolen the same from his master, although such chattel, money, or security was not received into the possession of his master, otherwise than by the actual possession of his clerk, servant, or other person so employed.—Act XIII, 1850, sec. v.

202. Every member and officer of a trading corporation or company, and also every banker, merchant, factor, broker, attorney, or other agent, whether he be commonly so employed, or be employed as an agent in that instance only, and whether he act as such agent gratuitously or otherwise, to whom any chattel, money, or valuable security is intrusted for safe custody, or for any special purpose, and whether with or without any authority to sell, negotiate, pledge, or employ the same, but with an authority limited to some defined purpose as to the application of such money, chattel, or valuable security, or of any part thereof, or of the proceeds or of any part of the proceeds thereof, who shall fraudulently apply, use, or dispose of the same, or any part of the proceeds thereof, for any purpose other than a purpose for which the same was intrusted to him, shall be deemed to have feloniously stolen the same.—Act XIII, 1850, sec. vi.

203. Every sub-agent, clerk, or servant of any such trading corporation or company, or of any banker, merchant, factor, broker, or other agent as aforesaid, who, knowing the purpose for which such chattel, money, or valuable security was intrusted to the corporation, company, person or persons, by whom he is employed, shall fraudulently apply, use, or dispose of the same, for any purpose other than a purpose for which the same was intrusted to his employer or employers, shall be deemed to have feloniously stolen the same, though he were not himself immediately employed or intrusted with the disposition thereof by the person entitled thereto.—Act XIII, 1850, sec. vii.

204. Every person possessed, or having the receipt, custody, or control of any chattel, money, or valuable security, in trust for any other person or persons, who shall embezzle the same or any part thereof, or in any manner fraudulently apply, use, or dispose of the same, for his own use or benefit, in breach of the trust reposed in him, shall be deemed to have feloniously stolen the same. —Act XIII, 1850, sec. viii.

205. Every person convicted of having feloniously stolen any chattel, money, or valuable security under this Act, shall be liable to be transported out of the territories under the Govern-

ment of the East India Company for life, or to be imprisoned with or without labour for any term not exceeding seven years.—Act XIII, 1850, sec. ix.

206. Every instrument entitling or showing the title of any person to any share or interest in any public stock or fund of any country or state, or in any stock of any corporation or company, or for the transfer of any such share or interest, or for the receipt of any dividend or interest on any such share, or entitling or showing the title to any deposit in any bank, and every warrant, order, or instrument for the payment of any money on any event, certain or contingent, or for the delivery or receipt of any goods or merchandize, on any such event, is a valuable security within the meaning of this Act.—Act XIII, 1850, sec. x.

207. Any offender under this Act may be proceeded against on the same charge for any number of distinct acts of embezzlement or fraudulent application, use, or disposition as aforesaid, committed by him within six calendar months, from the first to the last of such acts; and proof of a gross deficiency in the accounts of any such trustee or public servant shall be evidence of the offence charged until such deficiency is otherwise explained.—Act XIII, 1850, sec. xi.

208. If the offence relates to money or to any bank note, bank post bill, banker's cheque, bill of exchange, promissory note, Government paper, or other like security for the payment of money, it shall be enough in the indictment or charge to allege the embezzlement or fraudulent application, use, or disposition of money, without specifying any particular coin or valuable security; and such allegation shall, so far as regards the kind of property, be sustained, if the offender is proved to have embezzled or fraudulently applied, used, or disposed of any amount of money or any valuable security, though the particular kind of coin or valuable security, of which such amount was composed shall not be proved.—Act XIII, 1850, sec. xii.

209. It shall not be necessary, in any proceeding against any offender under this Act, to declare the person to whom the property embezzled or fraudulently applied or disposed of belongs, otherwise than hereinafter provided, or to give any other description of it than by stating its general character according to the provisions of this Act; and if the offence be that of embezzlement or fraudulent application, use, or disposition, by a person in the public service of the Crown, or of the East India Company, of property intrusted to him by reason of such employment, or part thereof, it shall be enough to state that the defendant was in such service, and that he received the property by reason of such employment, and embezzled the same, or part thereof, or fraudulently applied, used, or disposed of the same, as the case may be; and, if the case be one of fraudulent application, use, or disposition, by any person not being such public servant, but intrusted as aforesaid, it shall be enough to state that such person was intrusted with the property (describing its general character as aforesaid), and it shall be enough to state shortly the purpose of the trust, and that he fraudulently applied, used, or disposed of the same contrary to his duty on that behalf.—Act XIII, 1850, sec. xiii.

210. The court before which any offender is tried under this Act shall have power upon the trial to make any amendments that may be necessary, by reason of any variance between the statements of the charge and the evidence, either in the description of the property, or of any person, or of any office, appointment, or employment, or of the purpose of the trust or otherwise, when, in the opinion of the court, the person charged cannot have been misled as to his defence by such imperfect or erroneous statement.—Act XIII, 1850, sec. xiv.

211. Every offender under this Act may be tried and punished by any court of competent jurisdiction, either in the place where he is in custody, or where he committed the offence.—Act XIII, 1850, sec. xv.

212. The punishment of any offender under this Act shall not be deemed to take away or lessen his liability or the liability of his sureties to make good any loss sustained by Her Majesty or the East India Company, or any other person or persons, by his misbehaviour or breach of trust.—Act XIII, 1850, sec. xvi.

213. Every person charged with a felonious breach of trust under this Act, who shall be proved to have knowingly made up or furnished false statements or accounts of the sums of money received or paid by him, or intrusted to his care, or of the goods or balance of money in his custody or control, shall be liable to fine in the discretion of the court, although no actual embezzlement or fraudulent application, use, or disposition of trusts, moneys, chattels, or valuable securities, is proved against him, and in addition to such fine may be imprisoned, with or without hard labour, as the court shall adjudge, for any term not exceeding one year; but no person convicted of felonious breach of trust as aforesaid, shall be punished also for making up false accounts in connection with the same breach of trust.—Act XIII, 1850, sec. xvii.

PROCEEDINGS FOR CORRUPTION.

214. All native ministerial officers of the civil and criminal courts are amenable to the courts to which they are attached for acts of corruption or extortion, and the courts are empowered to receive any such charges that may be preferred against them, provided that before receiving such charges the complainant make an oath or declaration to the truth of it. Security shall not be demanded in the first instance for the prosecution of any such charges, but in the event of it appearing necessary at any time in the course of the inquiry sufficient hazirzaminy security may be required from the prosecutor or accuser to attend and prosecute the charge to a conclusion.—Reg. XIII, 1793, sec. ix, cl. 1; Reg. X, 1806, sec. x.

215. The Sudder Dewanny and Nizamut Adawlut are empowered to receive any charge of corruption or extortion against any native ministerial officer of a Zillah or Sessions Court, and to refer the charge for trial to the court to which the accused is attached, provided that if the offence was committed in any suit or matter depending before the court to which the said native officer was attached, the complainant shall prove to the satisfaction of the Sudder Court that he preferred the suit in the first instance to the lower court, and that such court refused or omitted to receive the charge.—Reg. XIII, 1793, sec. ix, cls. 2 to 6.

216. Charges of corruption or extortion which may be preferred against the native ministerial officers of any civil or criminal court of judicature are to be considered as civil actions, to be prosecuted in the civil courts; but this provision, the principal object of which is to enable individuals who may be aggrieved by any of the native officers of justice to obtain redress by an action in the civil courts, is not meant to preclude a criminal prosecution, in cases of corruption, extortion, or embezzlement, which may appear to call for exemplary punishment.—Reg. XIII, 1793, sec. ix, cl. 7; Reg. XVIII, 1817, sec. vi, cl. 1.

217. If a native ministerial officer of any civil or criminal court, who may be prosecuted for corruption or extortion under these rules, shall be proved to have received or taken the whole or any part of the money or property which he may be charged with having received or taken, the court is to adjudge him to refund the amount or value of the money or property which he may be so proved to have so received or taken, and to pay a fine of three times the amount of it to Government. In enforcing the decision, the court is to observe the rules prescribed for enforcing other decisions of the court. If the officer against whom such decree may be passed shall not appeal from it within the limited time, or if an appeal shall not lie from the decision, the court is to transmit a copy of the decree to the Governor-General in Council. If an appeal shall lie from the decision, and such officer shall prefer an appeal, and the decision shall be confirmed in appeal, the court by which the final decision may be passed is to transmit a copy of it to the Governor-General in Council, who reserves to himself the power of declaring such officer incapable of serving Government in any capacity. The courts may suspend a native officer against whom a charge of corruption or extortion may be preferred until the final decision may be passed, if they shall see cause for so doing.—Reg. XIII, 1793, sec. ix, cl. 8.

218. If any person shall prefer a charge of corruption or extortion against a ministerial officer of any civil or criminal court of judicature under these rules, and the charge shall not be proved, the accused is to have the option of suing the accuser for damages in any court of civil judicature to which he may be amenable.—Reg. XIII, 1793, sec. ix, cl. 12.

219. The foregoing rules are to be held applicable to charges of a similar nature that may be preferred against the Hindoo or Mahomedan law officers of the several courts, with the following qualifications.—Reg. XII, 1793, sec. viii, cl. 1.

220. An appeal shall lie to the Sudder Dewanny Adawlut from all decisions which may be passed by the Zillah Courts, whereby a charge of corruption or extortion against any law officer may be decreed not proved, or by which any such charge may be adjudged to be proved, whatever may be the amount decreed to be paid, notwithstanding anything that may be said to the contrary in any Regulation passed on this date.—Reg. XII, 1793, sec. viii, cl. 2.

221. No decree passed by any Zillah or City Court, adjudging a Hindoo or Mahomedan law officer guilty of corruption or extortion, shall be carried into execution, in the event of the law officer against whom such decree may be passed appealing from the decree, in cases of appeals from decisions for sums of money passed by those courts respectively, and the execution of which they are empowered to suspend upon such securities being given.—Reg. XII, 1793, sec. viii, cl. 3.

222. The Zillah and City Courts are to enforce, by the usual process, all decrees that they may pass adjudging their law officers guilty of corruption or extortion, which may not be appealed against within the limited time, and transmit copies of the decrees to the Governor-General in Council.—Reg. XII, 1793, sec. viii, cl. 4.

223. The Sudder Dewanny Adawlut is to transmit to the Governor-General in Council a copy of every decree which they may pass, adjudging a law officer of any civil or criminal court guilty of corruption or extortion, within one week after it may be given.—Reg. XII, 1793, sec. viii, cl. 6.

224. The Governor-General in Council, upon the receipt of any decree adjudging a law officer of a civil or criminal court guilty of corruption or extortion, which may be transmitted to him under these rules, reserves to himself the power of dismissing the offender from his office, or of both dismissing him from his office and declaring him incapable of exercising any employment under Government. The Governor-General in Council likewise reserves to himself the power of suspending any law officer against whom a charge of corruption or extortion may be preferred, until a final decision shall be passed on the charge, whenever it may appear to him expedient, either upon the representation of any of the courts of judicature, or in consequence of any other information which may come before him.—Reg. XII, 1793, sec. viii, cl. 7.

225. When a Zillah or a City Court shall adjudge a charge of corruption or extortion that may have been preferred against any law officer not to be proved, and the prosecutor shall not appeal from the decree within the limited time, the court is to transmit a copy of it to the Governor-General in Council. The Sudder Dewanny Adawlut, within the above-mentioned period, are to transmit to the Governor-General in Council copies of all decrees which they may pass, whereby any charge of corruption or extortion that may have been preferred against any law officer may be adjudged not proved.—Reg. XII, 1793, sec. viii, cl. 8.

226. Whenever a law officer, or ministerial native officer, may not, by the result of a civil action, have been subjected to the penalties for corruption or extortion provided for in the foregoing rules, and there may appear to be sufficient grounds for a criminal prosecution against any such officer on a charge of corruption, extortion, or embezzlement, he is hereby declared liable to a criminal prosecution before the zillah or city magistrate and Sessions Court, as provided for in other cases of misdemeanor by the Regulations, and on conviction before a Sessions Court, or the Court of Nizamut Adawlut, he shall be subject to discretionary punishment, to the extent and under the provisions stated in paragraph 170, with respect to native officers convicted of making use of the public money intrusted to their care.—Reg. XVIII, 1817, sec. vi, cl. 2.

227. Paragraph 171, directing a report of convictions and sentences to the Governor-General in Council, for the purpose of enabling him to determine whether the guilty persons should be declared incapable of again serving Government, shall also be considered applicable to any convictions and sentences under the present rules.—Reg. XVIII, 1817, sec. vi, cl. 3.

228. The Regulations in force not containing any provision for a summary proceeding to inquire into and recover embezzlements of money, or other property paid into, or deposited in the Civil or Criminal Courts of Judicature, or received by the nazir, khazanchy, or other native officers of those courts, in execution of decrees, or on account of deposits, or on any other account, in their official capacity; and it appearing expedient that provision should be made for this purpose as well as for compelling the native officers of the civil and criminal courts to deliver up any public accounts which may have been kept and withheld by them; the following rules are enacted for this purpose.—Reg. XVIII, 1817, sec. vii, cl. 1.

229. Whenever any native officer attached to a civil or criminal court may be charged with having embezzled any money or other property paid into, or deposited in the court to which he is attached, or received by him in his official capacity, in execution of a decree, or on account of a deposit, or on any other account whatever; or whenever the judge or judges of a civil or criminal court may have reason to suspect any such embezzlement on the part of a native officer attached to the court, they shall immediately institute a summary inquiry to ascertain the truth of such charge or suspicion; and shall, at the same time, require the native officer accused or suspected to give sufficient security for his attendance during the inquiry. In the event of such security not being given, and of its being necessary to keep the officer in custody pending the inquiry, it shall be competent to the judge or judges to order the same, and to keep the party in custody of peons, or to confine him in the jail of the Dewanny Adawlut, until he shall give the required security, or his detention appear no longer necessary.—Reg. XVIII, 1817, sec. vii, cl. 2.

230. When the summary inquiry has been completed, if it be established thereby that any money or other property has been embezzled by the person accused, or suspected in his official capacity, he shall be required to pay the same into court within such time as may be limited for that purpose; and on his failure to comply with such requisition, it shall be recoverable from him as well as from his surety, if he have given security on account of the office held by him, by the usual process of recovery in execution of judgments of the civil courts.—Reg. XVIII, 1817, sec. vii, cl. 3.

231. A similar mode of proceeding shall be observed when a native officer attached to any Civil or Criminal Court of Judicature may withhold any public accounts which it is his duty to prepare

and furnish, and the summary judgment in such cases shall not only order the immediate delivery of the accounts withheld, but shall also impose such fine to Government as may appear just and proper, on consideration of all the circumstances of the case, and the situation of the party.—Reg. XVIII, 1817, sec. vii, cl. 4.

232. Any person dissatisfied with the judgment of a Zillah or City Court, given under the provisions of paragraphs 228 to 231, shall be at liberty to prefer a summary appeal, thereupon under the rules applicable to such appeals, to the Sudder Dewanny Adawlut; and provided sufficient security be given for performing the decree of the Sudder Dewanny Adawlut, on the appeal, the decision of the Zillah or City Court shall not be carried into execution till confirmed by Sudder Dewanny Adawlut.—Reg. XVIII, 1817, sec. vii, cls. 5 and 6.

NOTE.—For rules respecting Summary Appeals see "CIVIL JUDICATURE," page 77.

233. Whenever any native ministerial officer, of any civil or criminal court, or any Hindoo or Mahomedan law officer, against whom an action may have been brought in the civil court to recover money or property, extorted or corruptly taken, shall be proved to have received or taken the whole, or any part of the money or property which he may be charged with having received or taken, the court is to adjudge him to refund the amount of the money, or value of the property, which he may be proved to have so received or taken, with interest when it may be a case of money taken, at such rate, not exceeding twelve per cent. per annum, as to the court may appear equitable, and to pay full costs to the plaintiff in the suit. The court shall not, in such case, be competent to award any fine against the defendant.—Reg. III, 1827, sec. iii.

234. Any law officer or ministerial native officer, charged with corruption or extortion, against whom there may appear to be sufficient grounds for a criminal prosecution, shall be liable to such prosecution as laid down in paragraph 226, whether the civil action provided for in the preceding paragraph, shall have been brought or not, and whatever, if brought, may have been its result.—Reg. III, 1827, sec. iv.

235. It shall not be necessary for any party, from whom money or property may have been corruptly taken or extorted, to institute a civil action for the recovery thereof: but on proof of the charge in a criminal prosecution for those offences, a certified copy of the conviction by a Sessions' Court, or the Nizamut Adawlut, shall be received as sufficient authority for enforcing the refund of the amount or value so taken with interest on application to that effect being preferred by the aggrieved party to the civil court, on the stamp paper prescribed for miscellaneous petitions.—Reg. III, 1827, sec. v.

236. Whenever it may be established by the process described in paragraphs 228 to 232, that any native officer attached to a civil or criminal court may have embezzled any money or other property duly paid into or deposited in the court to which he is attached, or regularly received by him in his official capacity, in execution of a decree, or on account of a deposit, or on any other account whatever, it shall be the duty of the European controlling authority to refund to the party or parties whose property may have been so embezzled the amount or value of the embezzlement from the public treasury, in the first instance, without reference to the solvency or otherwise of the defaulter or his surety; the Government reserving to itself the right of adopting such measures for the recovery of the money so refunded as may be deemed expedient with reference to the nature and circumstances of each case.—Reg. III, 1827, sec. vi.

237. If a native servant or dependant of any judge of a civil or criminal court of Judicature, not being a public officer attached to the court, shall extort or receive, directly or indirectly, any money or other valuable consideration, under any pretence whatever, from any party or person, on account of any suit to be instituted, or that may be depending or have been decided in the court, he shall be committed as for a contempt of court, and be punished by a fine equal to treble the sum of money extorted or received, or by imprisonment at the discretion of the court; and the judge is required to discharge such servant or dependant, and never to employ him, directly or indirectly, in his public or private capacity. If the offender shall not appeal against the decree within the limited time, or if an appeal shall not lie from the decision, or if the decision shall be confirmed in appeal, the court by which the final decree may be passed shall transmit a copy of it to the Governor-General in Council, who, in addition to the penalties or punishments specified in the decree, will, if there shall appear to him grounds for so doing, declare the offender incapable of serving Government in any capacity.—Reg. XIII, 1793, sec. xi.

238. If the Darogah of a jurisdiction, or any officer under his authority, shall be guilty of corruption, extortion, or oppression, or commit any act repugnant to this Regulation, the party injured is hereby permitted to prosecute him, either criminally before the Sessions Court, or for damages in the Dewanny Adawlut. The judges of the above-mentioned courts are required to take cognisance of all such prosecutions or suits as may be brought before them under this Regulation, and to pass such sentence or decree as may appear to them equitable, upon a consideration of the circumstances of the case.—Reg. XXII, 1793, sec. xxii.

239. Whenever the local Government, or the head officer of a department or office under Government, shall be of opinion that there are good grounds for making a public inquiry into the truth of any imputation of corruption, extortion, embezzlement, or other malversation committed at any time during tenure of office, by any ministerial or police officer, subject to the jurisdiction of the courts of the East India Company, and subordinate to such Government, or employed in such department or office, as the case may be, it shall be lawful for such Government, or any such head officer as aforesaid, to prosecute such officer on the part of Government in a criminal court, or to nominate some person to conduct such prosecution; and it shall also be lawful for such Government, or head officer as aforesaid, in their or his discretion, to undertake on the part of Government the prosecution in a criminal court of any such charge as aforesaid, which may be brought by an aggrieved private party against any such ministerial or police officer, and such prosecutions as aforesaid shall not be barred, or affected, by reason of the party prosecuted having ceased to be in the service of Government at the time at which the charge may be brought against him.—Act XXXII, 1852, sec. i.

240. Provided always, that no collector, magistrate, nor head of an office in the salt, abkarry, or customs' department, under the grade of commissioner, shall commence or undertake a prosecution under this Act, until he shall have obtained the permission of the court, board, or officer to whom he is immediately subordinate, to institute the same.—Act XXXII, 1852, sec. ii.

241. No collector, magistrate, judge, or other officer, who may prosecute any officer under this Act, or cause such prosecution to be instituted, or who may conduct any preliminary investigation into the conduct of such officer connected with such prosecution, nor any of his deputies, assistants, or subordinate officers, shall act as judge in any such prosecution.—Act XXXII, 1852, sec. iii.

NOTE.—For proceedings against officers of the Customs, and Revenue Ameens see "REVENUE."

242. The ministerial officers of the courts of the moonsiffs, sudder ameens, and principal sudder ameens, shall be liable to the same penalties for acts of corruption, extortion, or other misconduct, as the ministerial officers of the Zillah and City Courts are now liable under the general Regulations.—Reg. V, 1831, sec. xxv, cl. 2; Act XXV, 1837, sec. xi.

### INQUIRIES INTO THE BEHAVIOUR OF PUBLIC SERVANTS NOT REMOVABLE WITHOUT THE SANCTION OF GOVERNMENT.

243. Whenever the Government shall be of opinion that there are good grounds for making a formal and public inquiry into the truth of any imputation of misbehaviour by any person in the service of the East India Company, not removable from his office without the sanction of the same Government, it shall cause the substance of the imputations to be drawn into distinct articles of charge, and shall order a formal and public inquiry to be made into the truth thereof. —Act XXXVII, 1850, sec. ii.

244. The inquiry may be committed either to the court, board, or other authority to which the person accused is subordinate, or to any other person or persons, to be specially appointed, by the Government, commissioners for the purpose: notice of which commission shall be given to the person accused ten days at least before the beginning of the inquiry.—Act XXXVII, 1850, sec. iii,

245. When the Government shall think fit to conduct the prosecution, it shall nominate some person to conduct the same on its behalf.—Act XXXVII, 1850, sec. iv.

246. When the charge shall be brought by an accuser, the Government shall require the accusation to be reduced to writing, and verified by the oath or solemn affirmation of the accuser, and every person who shall wilfully and maliciously make any false accusation under this Act, upon such oath or affirmation, shall be liable to the penalties of perjury: but this enactment shall not be construed to prevent the Government from instituting any inquiry which it shall think fit, without such accusation on oath or solemn affirmation as aforesaid.—Act XXXVII, 1850, sec. v.

247. Where the imputations shall have been made by an accuser, and the Government shall think fit to leave to him the conduct of the prosecution, the Government, before appointing the commission, shall require him to furnish reasonable security that he will attend and prosecute the charge thoroughly and effectually, and also will be forthcoming to answer any counter-charge or action which may be afterwards brought against him for malicious prosecution, or perjury, or subornation of perjury, as the case may be.—Act XXXVII, 1850, sec. vi.

248. At any subsequent stage of the proceedings the Government may, if it think fit, abandon the prosecution, and in such case may, if it think fit, on the application of the accuser, allow him to continue the prosecution, if he is desirous of so doing, on his furnishing such security as is herein-before mentioned.—Act XXXVII, 1850, sec. vii.

249. The commissioners shall have the same power of punishing contempts and obstructions to their proceedings as is given to civil and criminal courts by Act XXX, 1841 (paragraphs 105 and 106), and shall have the same powers for the summons of witnesses, and for compelling the production of documents, and for the discharge of their duty under the commission, and shall be entitled to the same protection as the zillah and city judges, except that all process to cause the attendance of witnesses, or other compulsory process, shall be served through and executed by the zillah or city judge in whose jurisdiction the witness or other person resides, on whom the process is to be served; and if he resides within Calcutta, Madras, or Bombay, then through the Supreme Court of Judicature there. When the commission has been issued to a court, or other person or persons having power to issue such process in the exercise of their ordinary authority, they may also use all such power for the purposes of the commission.—Act XXXVII, 1850, sec. viii.

250. All persons disobeying any lawful process issued as aforesaid for the purposes of the commission shall be liable to the same penalties as if the same had issued originally from the court or other authority through whom it is executed.—Act XXXVII, 1850, sec. ix.

251.—A copy of the articles of charge, and list of the documents and witnesses by which each charge is to be sustained, shall be delivered to the person accused, at least three days before the beginning of the inquiry, exclusive of the day of delivery and the first day of the inquiry.—Act XXXVII, 1850, sec. x.

252. At the beginning of the inquiry, the prosecutor shall exhibit the articles of charge to the commissioners, which shall be openly read, and the person accused shall thereupon be required to plead "guilty" or "not guilty" to each of them, which pleas shall be forthwith recorded, with the articles of charge. If the person accused refuses, or without reasonable cause neglects, to appear to answer the charge either personally or by his counsel or agent, he shall be taken to admit the truth of the articles of charge.—Act XXXVII, 1850, sec. xi.

253. The prosecutor shall then be entitled to address the commissioners in explanation of the articles of charge, and of the evidence by which they are to be proved; his address shall not be recorded.—Act XXXVII, 1850, sec. xii.

254. The oral and documentary evidence for the prosecution shall then be exhibited; the witnesses shall be examined by or on behalf of the prosecutor, and may be cross-examined by or on behalf of the person accused. The prosecutor shall be entitled to re-examine the witnesses on any points on which they have been cross-examined, but not on any new matter, without leave of the commissioners, who also may put such questions as they think fit.—Act XXXVII, 1850, sec. xiii.

255. If it shall appear necessary before the close of the case for the prosecution, the commissioners may in their discretion allow the prosecutor to exhibit evidence not included in the list given to the person accused, or may themselves call for new evidence, and in such case the person accused shall be entitled to have, if he demand it, an adjournment of the proceedings for three clear days, before the exhibition of such new evidence, exclusive of the day of adjournment and of the day to which the proceedings are adjourned.—Act XXXVII, 1850, sec. xiv.

256. When the case for the prosecution is closed, the person accused shall be required to make his defence, orally or in writing, as he shall prefer. If made orally, it shall not be recorded; if made in writing, it shall be recorded, after being openly read, and in that case a copy shall be given at the same time to the prosecutor.—Act XXXVII, 1850, sec. xv.

257. The evidence for the defence shall then be exhibited, and the witnesses examined, who shall be liable to cross-examination and re-examination, and to examination by the commissioners, according to the like rules as the witnesses for the prosecution.—Act XXXVII, 1850, sec. xvi.

258. All witnesses, either for the prosecution or defence shall be examined on oath, or, if exempt from taking an oath in courts of justice, on solemn affirmation, to be administered in either case by one of the commissioners; and every witness so examined and wilfully giving false evidence on any material point, shall be deemed guilty of and liable to the penalties of perjury. When the prosecution is not conducted on behalf of Government, the prosecutor may himself give evidence for the prosecution and may be examined for the defence.—Act XXXVII, 1850, sec. xvii.

259. The commissioners, or some person appointed by them, shall take notes in English of all the oral evidence, which shall be read aloud to each witness by whom the same was given, and, if necessary, explained to him in the language in which it was given, and shall be recorded with the proceedings.—Act XXXVII, 1850, sec. xviii.

260. If the person accused makes only an oral defence, and exhibits no evidence, the inquiry shall end with his defence; if he records a written defence, or exhibits evidence, the prosecutor shall be entitled to a general oral reply on the whole case, and may also exhibit evidence to contradict any evidence exhibited for the defence, in which case the person accused shall not be entitled to any adjournment of the proceedings, although such new evidence were not included in the list furnished to him.—Act XXXVII, 1850, sec. xix.

261. When the commissioners shall be of opinion that the articles of charge, or any of them,

are not drawn with sufficient clearness and precision, the commissioners may, in their discretion, require the same to be amended, and may thereupon, on the application of the person accused, adjourn the inquiry for a reasonable time. The commissioners may also, if they think fit, adjourn the inquiry from time to time, on the application of either the prosecutor or the person accused, on the ground of the sickness or unavoidable absence of any witness, or other reasonable cause. When such application is made and refused, the commissioners shall record the application, and their reasons for refusing to comply with it.—Act XXXVII, 1850, sec. xx.

262. After the close of the inquiry, the commissioners shall forthwith report to Government their proceedings under the commission, and shall send with the record thereof their opinion upon each of the articles of charge separately, with such observations as they think fit on the whole case. —Act XXXVII, 1850, sec. xxi.

263. The Government, on consideration of the report of the commissioners, may order them to take further evidence, or give further explanation of their opinions. It may also order additional articles of charge to be framed, in which case the inquiry into the truth of such additional articles shall be made in the same manner as is herein directed with respect to the original charges. When special commissioners have been appointed, the Government may also, if it thinks fit, refer the report of the commissioners to the court, or other authority to which the person accused is subordinate, for their opinion on the case; and will finally pass such orders thereon as appear just and consistent with its powers in such cases.—Act XXXVII, 1850, sec. xxii.

264. The word "Government," as used in this Act, means the Governor-General in Council, the Governor or Deputy-Governor of the presidency of Fort William in Bengal, the Governor in Council of the presidencies of Fort St. George and Bombay respectively, and the Lieutenant-Governor of the North-Western Provinces of Bengal, whose sanction is necessary for the removal of the person accused.—Act XXXVII, 1850, sec. xxiii.

265. Nothing in this Act shall be construed to repeal any Act or Regulation in force for the suspension or dismissal of principal and other sudder ameens, or of deputy-magistrates or deputy-collectors, but a commission may be issued for the trial of any charge against any of the said officers, under this Act, in any case in which the Government shall think it expedient.—Act XXXVII, 1850, sec. xxiv.

266. Nothing in this Act shall be construed to affect the authority of Government, for suspending or removing any public servant for any cause without an inquiry under this Act.—Act XXXVII, 1850, sec. xxv.

267. It having been doubted whether a Sessions judge holding a zillah or city gaol delivery can, upon misconduct appearing before him in the course of a criminal trial or otherwise, order the dismissal of a police officer, or other native officer, it is hereby declared that a Sessions judge, holding a zillah or city gaol delivery, may order the dismissal of any native officer convicted before him of a criminal offence, which under any express provision in the Regulations is punishable by dismission from office; and on the same being notified to the magistrate or other European public officer, under whom the native officer so dismissed may have been employed, it shall be the duty of the magistrate or other European officer to take measures for the appointment of a successor to the vacant office, in conformity with the Regulations. In all other cases, if the removal of a native officer appear necessary to a Sessions judge holding a gaol delivery, he shall communicate the same, with the grounds of his opinion, to the magistrate or other European public officer under whom such native officer may be employed; and the magistrate, or other European officer receiving such communication, shall either conform thereto and proceed to fill the vacant office in the mode prescribed by the Regulations, or shall report the case to the proper court, board, or other authority vested with the final power of removing the native officer referred to, under the provisions of Regulation VIII, 1809, or any other Regulation in force.—Reg. XXV, 1814, sec. xv.

### OATHS OF OFFICE.

268. All public officers shall take and subscribe the prescribed oaths of office before such person as the Governor-General in Council may commission to administer them.—Reg. II, 1793, sec. iii,; Reg. V, 1804, sec. xxv; Reg. III, 1829, sec. iii.

269. It shall be lawful for the Governor-General in Council to dispense with any oath which by any Regulation, or by any Act of the Governor-General of India in Council is now required to be taken, and it shall be lawful for the Lieutenant-Governor of the North-West Provinces to dispense with any oath which by any Regulation or any Act of the Governor-General of India in Council now in force within those provinces is now required to be taken.—Act XXI, 1837, sec. i.

270. Provided always that the dispensing power given by this Act shall not extend to any

oath now required by law to be taken in any stage of any judicial proceeding.—Act XXI, 1837, sec. ii.

271. Whenever any oath is dispensed with under the authority given by this Act, the person who but for such dispensation would have been legally required to take such oath shall, in the presence of the functionary by whom, but for such dispensation, such oath would have been administered, make and subscribe a declaration in writing to the same effect with such oath.—Act XXI, 1837, sec. iii.

272. Whoever shall, in any declaration made and subscribed according to the provisions of this Act, knowingly state any untruth, such that if that untruth had been stated on oath, the person stating it would have been guilty of perjury, shall be punished with imprisonment for a term not exceeding one year, or fine or both.—Act XXI, 1837, sec. iv.

273. Such parts of the Regulations in force as direct that the law officers, or ministerial native officers of the Courts of Judicature, civil or criminal, or any other native officers employed in the judicial or revenue departments, or in any public office whatever, shall take and subscribe an oath, previously to their entering upon the discharge of the duties of the office to which they may be respectively appointed, or which in like manner prescribe an oath of office to be taken by the moonsiffs and sudder ameens, and by the native pleaders attached to the civil courts, are declared subject to the following modifications.—Reg. XVIII, 1817, sec. ii. cl. 1.

274. Instead of the prescribed oath, which is required by the Regulations in force, the several native officers referred to in the above paragraph shall hereafter make and subscribe, in open court, or in the established public office, before the judges, boards, collectors, and agents, or other European authorities to which they may be respectively subject, a solemn declaration to the same effect, with the form of oath heretofore prescribed, except that the word "declare" shall be substituted for "swear;" and that the declarer shall not be sworn thereto.—Reg. XVIII, 1817, sec. ii, cl. 2.

275. The judges, boards, collectors, or other European officers before whom such declarations are required to be made and subscribed, shall attest the same as publicly read and subscribed before them, in pursuance of the above paragraph, and shall be careful to enforce a due observance of the rule therein contained by the native officers appointed to act under them respectively.—Reg. XVIII, 1817, sec. ii, cl. 3.

276. The serishtadars, or other head native officers, moonshees, mohurrers, and nasirs of the Civil and Criminal Courts, previous to entering upon the execution of the duties of their offices, are to take and subscribe the following oath or declaration in open court, before the judge or judges of the court to which they may be attached:

"I, A. B., appointed to the office of serishtadar (or other head officer, or moonshee, mohurrer, or nasir) to the Sudder Dewanny Adawlut or the Nizamut Adawlut, or the Dewanny Adawlut or Sessions Court of the zillah or city of . ), solemnly swear (or declare) that I will truly and faithfully perform the duties of the office to which I have been nominated to the best of my knowledge and ability; that I will not receive, directly or indirectly, any present or nuzzer, in money or effects of any kind, from any party whomsoever, on account of any suit to be instituted, or which may be depending or have been decided in the court; that I will not knowingly permit any person or persons under my authority, or in my immediate service, to receive, directly or indirectly, any present or nuzzer, in money or effects, from any party or person whomsoever, on account of any suit to be instituted, or which may be depending or have been decided in the court; and that I will not derive, directly or indirectly, any advantages or emoluments from my office, excepting such as the orders of Government do or may authorize me to receive."—Reg. XIII, 1793, sec. iv.

277. With the modification contained in paragraphs 273 to 275, the rules in force, which require that certain native officers attached to the Civil and Criminal Courts of Judicature, and to other public offices, shall take and subscribe an oath, solemnly engaging to perform the duties of the office committed to them faithfully and uprightly, according to the Regulations, are hereby declared to extend to the native record keepers and thaseeldars, or native treasurers of the civil and criminal courts, though not specifically named in the preceding paragraph, as well as to all other native officers of Government holding any situation of trust and responsibility in the public service. —Reg. XVIII, 1817, sec. iii.

NOTE.—For Judicial Oaths, See "CIVIL JUDICATURE," page 49.

## REGULATIONS.

### FORM AND AUTHORITY.

278. Every rule or order that may be passed by the Governor-General in Council regarding the administration of justice, the imposition or levying of taxes or of duties on commerce, the collec-

tion of the public revenue assessed upon the lands, the rights and tenures of the proprietors and cultivators of the soil, the provision of the Company's investment, the manufacture of salt or opium, and generally all Regulations affecting in any respect the rights, persons, or property of the natives, or any individuals who may be amenable to the Provincial Courts of Judicature, shall be recorded in the judicial department, and there framed into a Regulation, and printed and published as hereafter directed.—Reg. XLI, 1793, sec. ii.

279. The Regulations passed annually shall be numbered. The first Regulation enacted in each year shall be numbered one, and all subsequent Regulations according to the order in which they may be passed. The number of each Regulation, and the year in which it may be enacted, is to be inserted at the top of every page as in this Regulation.—Reg. XLI, 1793, sec. iii.

280. Every Regulation shall have a title expressing the subject of it as concisely as possible, similar to the title prefixed to this Regulation.—Reg. XLI, 1793, sec. iv.

281. First.—There shall be a preamble to every Regulation stating the reasons for the enaction of it.

Second.—If any Regulations shall repeal or modify a former Regulation, the reasons for such repeal or modification are to be detailed in the preamble.—Reg. XLI, 1793, sec. v.

282. Every Regulation is to be divided into sections. Each section shall be numbered according to the order in which it may occur. The preamble is to be considered as the first section. The sections, where necessary, may be divided into clauses; in which each clause is to be numbered in the same manner as the clauses in section v, of this Regulation.—Reg. XLI, 1793, sec. vi.

283. In framing a Regulation, if there shall be occasion to refer to any clause or section of a Regulation, or any Regulation at large; as, for example, the second clause of the fifth section, or the fifth section of this Regulation, or this Regulation generally; the reference, in each case, shall be expressed in the following manner: clause second, section v, Regulation XLI, 1793; section v, Regulation XLI, 1793; Regulation XLI, 1793;—Reg. XLI, 1793, sec. vii.

284. The subject of every section and clause shall be inserted opposite to it in the margin as concisely as possible.—Reg. XLI, 1793, sec. viii.

285. The civil and criminal courts of justice are to be guided in their proceedings and decisions by the Regulations which may be framed and transmitted to them as above directed, and by no other.—Reg. XLI, 1793, sec. xiii.

286. In the English drafts of Regulations, the same designations and terms are to be applied to the same descriptions of persons and things, in order that rights, property, tenures, privileges, deeds, courts, process, offices, officers, and generally all persons and things, may be uniformly described by the same designations and terms throughout the judicial code.—Reg. XLI, 1793, sec. xiv.

287. Every Regulation with the marginal notes shall be translated into the Persian and Bengal languages by the Persian translator to the Government, or such other person as the Governor-General in Council may expressly appoint for that purpose. The number of the Regulation and the year in which it may be passed, and the numbers of the sections and clauses shall be inserted in the translates, in the same manner as in the English drafts of the Regulations.—Reg. XLI, 1793, sec. xv.

288. The translator is to be particularly careful to preserve in the translates the same uniformity in the designations and terms applied to persons and things, as is directed with regard to the English code in paragraph 286. Whenever he shall have occasion to insert the designation or name of any person or thing that he may have reason to believe may not be intelligible to the natives in general, and which may not have been used and explained in the translates of any former Regulation, he shall, in the first passage in which such word or term may occur, subjoin an explanation of it, that upon its recurring no doubt may be entertained as to its true meaning and import.—Reg. XLI, 1793, sec. xvi.

289. It shall be the duty of the translator to revise the proof sheets of the printed translates, and to correct all errors of the press.—Reg. XLI, 1793, sec. xvii.

290. The translator is to translate the Regulations into plain and easy language, and in all possible cases to reject words not in common use. As far as may be consistent with the preservation of the true meaning and spirit of the Regulations, he shall adopt the idiom of the native languages, instead of giving a close verbal translation of the English drafts, which must necessarily render the translates obscure, and often unintelligible to the natives.—Reg. XLI, 1793, sec. xviii.

291. One part of a Regulation is to be construed by another, so that the whole may stand.—Reg. XLI, 1793, sec. xix.

292. If any Regulation shall be passed differing from a former Regulation, either wholly or partially, the new Regulation is to be considered as a virtual repeal of the old one as far as it may differ from the latter; provided that the new Regulation be couched in negative terms, or by its matter necessarily imply a negative.—Reg. XLI, 1793, sec. xx.

293. If a Regulation that rescinds another Regulation is itself afterwards rescinded, the original Regulation is to be considered as revived, without any formal declaration to that purpose.—Reg. XLI, 1793, sec. xxi.

294. On receipt of translations of the Regulations in the country languages, the zillah and city judges and magistrates shall cause the same to be publicly read in their cutcherries; and shall require the native pleaders of their respective courts to take copies of the translations of any Regulations which relate, directly or indirectly, to the administration of civil justice. The judges shall also cause the copies which they are required to furnish to the cauzees stationed in the several towns and pergunnahs within their respective jurisdictions, to be read and published, for general information, at the cutcherries of the moonsiffs, and of the police daragahs or tehseeldars in charge of the police.—Reg. XXXIX, 1793, sec. x.; Reg. XI, 1806, sec. xii, cl. 2.

295. *Production of a Government Gazette proof of an "Act" having passed.*—Act X, 1835. (*See* "Miscellaneous," *paragraph* 3.)

# CIVIL AND CRIMINAL JUDICATURE.

## APPENDIX

### TABLE OF ENACTMENTS.

| Original Regulation | | | Paras. in Consolidation. | REMARKS |
|---|---|---|---|---|
| | | | | *Lower Provinces.* |
| 1793 | III. | ii. | 7 | |
| | | | | *Benares.* |
| 1795. | I | iv. | | Extends Regulation XL, 1793, generally |
| | VII. | ii., 1 | 8 | |
| 1795. | VIII. | v. | 1 | |
| | | vi | 2, 3 | |
| | | vii | 5 | |
| | | viii. | 6 | |
| | X. | v | 6 | |
| | | vi. | 1 | |
| | | vii. | 2, 3 | |
| | | viii. | 4 | |
| | | ix. | 5 | |
| | XI. | ii | | Extends Reg. XII, 1793, generally |
| | | iii. | | Superseded by the abolition of Courts of Circuit |
| | XII. | ii. | | Extends Reg. XIII, 1793, generally |
| | XVIII. | ii. | | Extends Reg. XVIII, 1793, generally |
| | XXII. | | | Unnecessary; being only historical of laws superseded |
| | XXXVI. | vii. | | See paragraph 7 (a) |
| | XLVIII. | ii. | | Parallel rule to paragraph 184, "CIVIL AND CRIMINAL JUDICATURE" |
| | | iii . to v | | Superseded as regards British subjects by Act IV, 1837 |
| | XLIX. | ii. | | Declares that the head Cauzy of Bengal, Behar, and Orissa, shall be the head Cauzy of Benares |
| | | iii. | | Extends Reg. XXXIX, 1793, generally |
| | | | | *Ceded Provinces.* |
| 1803 | I. | ii. to viii. | | Same as paragraphs 278 to 284, "CIVIL AND CRIMINAL JUDICATURE" |
| | | ix. to xii. | | Unimportant, being rules respecting circulation, &c. |
| | | xiii. to xxi. | | Same as paragraphs 285 to 293, "CIVIL AND CRIMINAL JUDICATURE" |
| | II. | ii. | 9 | |
| | | xxii | | Rescinded by cl 1, sec. iv, Reg. XXVI, 1814 |
| | | xxiii. | | Parallel to paragraphs 110 to 113, "CIVIL AND CRIMINAL JUDICATURE" |
| | III. | viii. | | Parallel to paragraph 84, "SPECIFIC OFFENCES" |
| | | xxi. | | Parallel to paragraph 65, "CIVIL AND CRIMINAL JUDICATURE" |
| | | xxii. | | Same as paragraph 104, *ibid.* |
| | | xxiii. | | Parallel to paragraph 74, *ibid.* |
| | | xxiv | | Same as paragraph 75, *ibid.* |
| | | xxv., 1 | | Parallel to paragraph 76, *ibid.* |
| | | xxv., 2 | | Same as paragraph 77, *ibid.* |
| | | xxvi. | | Same as paragraph 78, *ibid* |
| | | xxvii. | | Same as paragraphs 96 and 102, "PROCEDURE ON THE TRIAL OF ORIGINAL SUITS" |
| | IV. | xv to xvii. | | Same as paragraphs 66 to 68, "CIVIL AND CRIMINAL JUDICATURE" |
| | | xx. | | Superseded by the abolition of the Provincial Courts |
| | | xxiii. to xxvi. | | |
| | V. | xiii. | | Parallel to paragraphs 66 and 196, "CIVIL AND CRIMINAL JUDICATURE" |
| | | xi v., xv | | Same as paragraphs 67, 68, *ibid*, |
| | | xviii. | | Parallel to paragraph 84, "SPECIFIC OFFENCES" |
| | | xxiii. | | Superseded by sec. ii, Reg. III, 1798, and sec. x, Reg. I, 1806 |
| | | xxiv. | | Parallel to paragraph 74, "CIVIL AND CRIMINAL JUDICATURE" |
| | | xxv. | | Same as paragraph 75, *ibid.* |
| | | xxvi. | | Parallel to paragraph 76, *ibid.* |
| | | xxvii. | | Same as paragraph 78, *ibid.* |
| | | xxxviii. | | Parallel to paragraph 196, *ibid.* |
| | XI. | | | Same as Regulation XII, 1793 |
| | XII | i. to v. | | Same as sections i to v, Reg. XIII, 1793 |
| | | vi to x | | Superseded by sec. xxix, Reg. V, 1831 |

| Original Regulation. | Paras. in Consolidation. | REMARKS. |
|---|---|---|
| 1803, XII. xi. | | Same as paragraph 14, "CIVIL AND CRIMINAL JUDICATURE" |
| xii., 1 to 8 | | Same as paragraphs 214 to 217, *ibid.* |
| xii., 9 to 11 | | Rescinded by sec. i, Act XXVI, 1839 |
| xii., 12. | | Same as paragraph 218, "CIVIL AND CRIMINAL JUDICATURE" |
| xiii. | | Superseded by later enactments |
| xiv. | | Same as paragraph 237, "CIVIL AND CRIMINAL JUDICATURE" |
| xv. | | Superseded by sec. xxix, Reg. V, 1831 |
| xvi. | | Unnecessary, being provided for in later enactments |
| xvii., xviii. | | Same as paragraphs 122, 123, "MAGISTRATES" |
| xix. | | Rescinded by cl. 4, sec. xvi, Reg. VIII, 1805 |
| xx., xxi. | | Superseded by sec. xxix, Reg. V, 1831 |
| XIII. ii. to ix. | | Same as paragraphs 114 to 121, "CIVIL AND CRIMINAL JUDICATURE" |
| x. to xvi. | | Rescinded by sec ii, Reg. VII, 1829 |
| xvii, | | Superseded by sec. xxix, Reg V, 1831 |
| xviii. to xxiii. | | Superseded by sec. ii, Reg. VII, 1829 |
| XIX. ii. | | Same as paragraph 184, "CIVIL AND CRIMINAL JUDICATURE" |
| iii. to vi. | | Superseded by Act IV, 1837 |
| XXII. ii. to iv. | | Same as paragraphs 45 to 47, "CIVIL AND CRIMINAL JUDICATURE" |
| XXXII. | | Superseded by sec. ii, Reg. XX, 1817, and Act IV, 1840 |
| XXXIII. ii., 1 | | Same as paragraph 162, "CIVIL AND CRIMINAL JUDICATURE" |
| ii., 2 | | Unnecessary; only recites a former enactment |
| iii. to viii | | Same as paragraphs 163 to 168, "CIVIL AND CRIMINAL JUDICATURE" |
| XLVI. ii. | | Declares that the head Cauzy of Bengal, Behar, Orissa, and Benares shall be the head Cauzy of the Ceded Provinces |
| iii. to vi. | | Same as paragraphs 138 to 143, "CIVIL AND CRIMINAL JUDICATURE" |
| ix. | | Superseded by Act I, 1839 |
| x. | | Included in paragraph 294, "CIVIL AND CRIMINAL JUDICATURE" |
| xi. | | Superseded by later enactments |
| | | *Conquered Provinces.* |
| 1805 VIII. | | See note to this Reg. in Table to *Appendix*, "CIVIL JUDICATURE" |
| iii., iv | 10, 11 | |
| xiii. | | Same as paragraph 107, "CIVIL AND CRIMINAL JUDICATURE" |
| xxxi. | | Parallel to paragraph 294, *ibid.* |
| | | *Various Local Enactments.* |
| 1797 VII. | | See paragraph 7 (*c*, *d*) |
| 1806. I. ii. | | |
| iii. to ix. | | Superseded and rescinded by later enactments |
| VII. | | See paragraph 7 (*b*) |
| XII. ii. to vii. | 55 to 60 | |
| XIV. | | See paragraph 10 (*a*) |
| 1808. XII. | | Rescinded by sec. ii, Reg. III, 1816 |
| 1812. XXII. ii. to iv. | 92 to 94 | |
| 1816. III. ii. | | Unnecessary; only rescinds |
| VII. | | Repealed by sec. i, Act XVII, 1853 |
| XVIII. ii. to v. | 61 to 66 | |
| 1817. IV. ii. | | Rescinded by sec. ii, Reg. XXI, 1825 |
| iii., iv., 1 | 15, 16 | |
| iv., 2, 3 | | Extinct |
| v. | 17 | |
| X. | | Repealed by sec. i, Act X, 1838 |
| 1818. II. ii. to vi. | 71 to 79 | |
| IV. | | See paragraph 10 |
| V i. to viii. | 101 to 112 | |
| 1822. X. ii. to ix. | 20 to 30 | |
| 1825. XVIII. ii., iii. | 61 to 33 | |
| iv., 1 to 4 | | Extinct |
| iv., 5 | 34 | |
| v. to ix. | 35 to 42 | |
| XXI. x. ii. | | Unnecessary; only rescind |
| iii., iv. | | Superseded by Reg. V, 1829 |
| 1826. V. ii. to iv. | 67 to 69 | |
| v. | | Extinct |
| vi. | 70 | |
| VI. | | See paragraph 9 (*a*) |
| 1829. V. ii., iii., 1 | | Unnecessary; only rescind |
| iii., 2 | 18 | |
| 1831 VI viii. | | Temporary only |
| ix. | | Superseded by Act X, 1838 |
| x. to xv. | 95 to 100 | |
| 1832. I | | Repealed by sec. i, Act IX, 1852 |
| V. ii. to iv. | 12 to 14 | |
| VIII. | | See paragraph 7 (*b*). |

| Original Regulation or Act. | | | Paras. in Consolidation. | REMARKS. |
|---|---|---|---|---|
| 1833. | V. | | | See paragraph 7 (*d*) |
| | XIII. | ii. | | Unnecessary; only rescinds |
| | | iii to vii, | 49 to 53 | |
| 1835 | VI. | | 43 | |
| 1836 | XVII. | i. to iii. | 86 to 88 | |
| 1838 | X | i | | Unnecessary; only repeals |
| | | ii. | 19 | |
| 1843 | XXII. | | | Unnecessary; only repeals |
| 1846. | VI. | i. to v. | 44 to 48 | |
| 1852. | IX | i. | | Unnecessary; only repeals |
| | | ii. to iv | 89 to 91 | |
| 1853 | XVII Preamble | | 80 | |
| | | i. to v. | 81 to 85 | |
| 1854 | XX. | i. | 50 | Amalgamated with sec. iv, Reg. XIII, 1833 |
| | | ii | 54 | |

## TABLE OF DIVISIONS.

| TITLES OF DIVISIONS. | Nos. of Paragraphs. |
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# CIVIL AND CRIMINAL JUDICATURE.

## APPENDIX.

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### LOCAL ENACTMENTS

#### BENARES

*Resistance to Process*

1 WHERE decrees of forfeiture may be ordered to be executed under section xxii, Regulation IV, 1793, or section xxiv, Regulation VI, 1793, the court by which the decree is to be executed is to issue a precept, under the seal of the court and the signature of the register requiring the collector of the revenue to order the nearest tehseeldar, or other officer employed under him in the business of the collections, to take charge of the lands —Reg VIII, 1795, sec v, Reg X, 1795, sec vi

2 The following rule is substituted in lieu of section xxiii, Regulation IV, 1793, and section xxv, Regulation VI, 1793 ,—Regulation VIII, 1795, sec vi, cl 1, Regulation X, 1795, sec vii, cl 1

3 If the decree adjudging the lands of the offender forfeited shall be confirmed or stand good under section xxii, Regulation IV, 1793, or under section xxiv, Regulation VI, 1793, it shall be at the option of the Governor General in Council either to confer the rights which the offender possessed in the lands on his heirs, upon their agreeing to make good all sums whatever that may be due from him to Government on account of the lands forfeited, and to pay the fixed public revenue assessed upon them, or if it be a common or distinct putteedarry, the revenue payable from it to the principal proprietor or proprietors, or to the pottah-holder or pottah-holders in whose pottah the lands may be included, or to order the lands to be disposed of at public sale, under the rules prescribed for the sale of lands so forfeited in Act IV, 1846 ("PROCEDURE ON THE TRIAL OF ORIGINAL SUITS").—Reg VIII, 1795, sec vi, cl 2, Reg X, 1795, sec vii, cl 2

4 Leases of farmers finally adjudged annulled under section xxvi, Regulation VI, 1793, are to stand cancelled from the end of the Fussily year, agreeably to the principle prescribed by that section in similar cases, in Bengal, Behar, and Orissa —Reg X, 1795, sec. viii

5 The collector is to proceed against farmers whose leases may be annulled under section xxiv, Regulation IV, 1793 or under section xxvi, Regulation VI, 1793, and their sureties, for the recovery of any arrears that may be due from them, in the manner specified in Regulation VI, 1795, instead of section xx, Regulation XIV, 1793, as directed in the first-mentioned section, for the recovery of balances due from farmers whose leases may be adjudged annulled for resistance to the process of the collector or their sureties The offender is permitted to prosecute in the Dewanny Adawlut in the jurisdiction of which the farm may be situated, the zemindars, talookdars putteedars, distinct or common, under-farmers, and ryots, in the lands included in the farm for any arrears of rent or revenue that may be due from them to him, on account of the period during which his lease remained in force —Reg VIII, 1795, sec vii, Reg X, 1795, sec ix

6 The rules prescribed in Regulations IV, VI, 1793, VIII, and X, 1795, respecting any zemindar, talookdar or other proprietor of land or farmer of land, or other person in the zillahs, who may resist, or cause to be resisted, any process, rule, order, or decree of the Sudder Dewanny Adawlut, are to be considered as extending to any such person who may be guilty of the same offence in the jurisdiction of the City Court —Reg VIII 1795, sec viii, Reg X, 1795, sec v

## ZILLAHS.

NOTE.—By Act XX, 1836, the Governor-General in Council is empowered to create new zillahs and to alter the limits of existing zillahs. Such changes, therefore, as are the subjects of the following enactments will be no longer effected by Acts. It appears under these circumstances sufficient to present here a list of the Regulations which have heretofore effected local creations and changes, and the places to which they severally referred. Zillah Courts were originally established for Bengal, Behar, and Orissa by Regulation III, 1793, and successively in the province of Benares, and in the Ceded and Conquered Provinces, in the years 1795, 1803 and 1805. The Regulations by which Zillahs were so established are given below, and references are added to enactments enlarging and altering those arrangements.

7. *Lower Provinces.—Original Zillah and City Courts.*

Nuddea
Beerbhoom
Burdwan (*a*)
Midnapore
Twenty-four Pergunnahs (*b*)
Jessore
Moorshedabad (*c*)
Boglepore
Rajeshahee
Purneah
Dinagepore
Rungpore
Cooch Behar
Sylhet
Dacca Jelalpore (*d*)
Momensing
Tipperah
Chittagong
Behar Proper
Shahabad
Sarun
Tirhoot
Ramghur (*e*).

*Cities.*

Moorshedabad
Dacca (*d*)
Patna.

—Reg. III, 1793, sec. ii.

(*a*) Burdwan was divided into two zillahs by sec. vii, Reg. XXXVI, 1795.

(*b*) Zillah Twenty-four Pergunnahs was reconstructed by Reg. VII, 1806, and Reg. VIII, 1832, on the abolition of a zillah denominated the "Suburbs of Calcutta," which had been created by Reg. XIV, 1814, afterwards rescinded. The following rule in sec. viii, Reg. VII, 1806, is special:—"All complaints against the collector of customs at Calcutta, or his public officers, or any other public officer at the presidency, which, by the Regulations in force, are cognizable in any Court of Zillah Dewanny Adawlut, shall be received, tried, and determined, as prescribed in the Regulations, by the judge of the Dewanny Adawlut of the twenty-four pergunnahs, constituted in pursuance of the Regulations now enacted."

(*c*) Zillah Moorshedabad was abolished by sec. ii, Reg. I, 1806.

(*d*) The City Court of Dacca was abolished by sec. ii, Reg. I, 1806; Zillah Dacca Jelalpore reconstructed by Reg. VII, 1797 (together with Zillah Bakergunge, still existing), was merged, with it, into one zillah, denominated Zillah Dacca, under Reg. V, 1833.

(*e*) Zillah Rhamghur was abolished by sec. ii, Reg. XIII, 1833. See "LOCAL RULES," post.

8. *Benares.—Original Zillahs.*

Benares.
Mirzapore
Ghazeepore.
Juanpore

—Reg. VII, 1795, sec. ii. cl. 1.

9. *Ceded Provinces.—Original Zillahs.*

Moradabad
Bareilly
Etawah
Furruckabad.
Cawnpore (*a*)
Allahabad (*a*)
Goruckpore

—Reg. II, 1803, sec. ii.

(*a*) The Zillah of Futtehpore was constituted by Regulation VI, 1826, out of Zillahs Cawnpore and Allahabad.

10. *Conquered Provinces.—Original Zillahs.*

Allyghur
Saharunpore—northern division (*a*)
" Southern division (*a*)
Agra
Bundlekund

—Reg. VIII, 1805, sec. iii.

(*a*) The two divisions of Saharunpore were constituted one zillah by Reg. XIV, 1806.
The Zillah of Meerut was created by Reg. IV, 1818.

## LIMITED OPERATION OF THE REGULATIONS IN CERTAIN DISTRICTS.

NOTE.—The following enactments provide for special administration, and the partial application of Regulations in particular tracts of country.

### *Delhi.*

11. The city of Delhi, and the conquered territory situated on the right bank of the river Jumna, the revenues of which are assigned to his Majesty Shah Alum, are hereby declared not to be subject to any of the laws or regulations of the British Government, printed and published in the manner prescribed in Regulation I, 1803.—Reg. VIII, 1805, sec. iv.

12. The administration of the revenue, of the police, and of civil and criminal justice, which has heretofore been superintended by the resident and chief commissioner at Delhi, is hereby declared, from and after the date of the promulgation of this Regulation, to be vested, as regards civil matters, in the Court of Sudder Dewanny Adawlut, as regards criminal matters, in the Court of Nizamut Adawlut, and as regards revenue matters, in the Sudder Board of Revenue for the North-Western Provinces; and all cases actually pending before the resident and chief commissioner at Delhi on the date of the promulgation of this Regulation shall be transferred to one or other of the three departments above specified, as the subject may refer to one or the other of those departments.—Reg. V, 1832, sec. ii.

13. In the conduct of civil and criminal trials, in the administration of the revenue, and in all other matters, the commissioner of the Delhi territory, and all other officers acting under his control, shall ordinarily conform to the principles and spirit of the Regulations applicable to such subjects, and shall regularly furnish to the Sudder Dewanny and Nizamut Adawlut, and the Sudder Board of Revenue for the North-Western Provinces, all such statements and reports as are prescribed by the existing Regulations to be submitted by the Commissioner of Revenue and Circuit, or as may be specially prescribed in future by the authorities to whom by this Regulation they are declared to be subordinate.—Reg. V, 1832, sec. iii.

14. Provided, moreover, that it shall be competent to the Governor-General in Council whenever it may be deemed expedient, to introduce the whole or a part of the Regulations in force into the Delhi territory, and that an order or resolution of Government, under the official signature of the secretary, shall be sufficient authority for that purpose.—Reg. V, 1832, sec. iv.

### *Dehra Dhoon.*

15. The Courts of Civil Judicature shall not be deemed competent to take cognizance of civil claims in the Dehra Dhoon, the cause of action in which may have originated previously to the 15th of May, 1803, being a period of twelve years antecedent to the date of the convention, by which that tract of country was surrendered to the British Government.—Reg. IV, 1817, sec. iii.

16. The Courts of Criminal Judicature are prohibited from taking cognizance of any crime or offence which may have been committed in any part of the Dehra Dhoon, previously to the 15th of May, 1815, being the date of the convention by which the said tract of country was surrendered to the Honourable the East-India Company.—Reg. IV, 1817, sec. iv, cl. 1.

17. The Governor-General in Council reserves to himself the power of fixing the periods, for which the settlement of the land revenue shall from time to time be formed in the Dehra Dhoon, according as local circumstances may appear to require, adhering, however, as nearly as practicable, to the principles established for the settlement generally of the lands in the territories ordinarily denominated the Ceded and Conquered Provinces.—Reg. IV, 1817, sec. v.

18. The administration of criminal justice in the Dehra Dhoon, and in the reserved tracts between the Jumna and Sutlej above mentioned, shall hereafter be conducted under such rules and instructions as the Governor-General in Council may please to issue for the guidance of the officers to whom it may be instructed.—Reg. V, 1829, sec. iii, cl. 2.

### *Kumaon.*

19. The functionaries who are or may be appointed in the province of Kumaon are respectively placed under the control and superintendence, in civil cases, of the Court of Sudder Dewanny Adawlut; in criminal cases, of the Court of Nizamut Adawlut; and in revenue cases, of the Sudder Board of Revenue for the North-Western Provinces; and such control and superintendence shall be exercised in conformity with such instructions as the said functionaries may have received, or may hereafter receive, from the Government of the North-Western Provinces of the presidency of Fort William.—Act X, 1838, sec. ii.

*Garrow Hills.*

20. The tract of country now comprised in the thannah jurisdictions of Gwalpara, Dhoobree, and Kurreebaree, in the district of Rungpore, is hereby declared separated from the said district; and the operation of the rules for the administration of the police, and of civil and criminal justice, as well as those for the collection of the land revenue, customs, abkaree, and stamp revenues, together with all other rules contained in the Regulations printed and published in the manner prescribed by Regulation XLI, 1793, are suspended, and shall cease to have effect therein from the date of the promulgation of this Regulation, except in so far as may be hereinafter provided.—Reg. X, 1822, sec. ii.

21. The administration of civil and criminal justice, the collection of the revenue, the superintendence of the police, and every other branch of Government within the tract above described, are hereby declared to be vested in an officer appointed by the Governor-General in Council, and denominated the Civil Commissioner for the North-Eastern parts of Rungpore; the said officer shall conduct the same agreeably to the principles and spirit of the existing Regulations, subject to the restrictions and modifications hereinafter provided, and to such other alterations and amendments as may from time to time be ordered by the Governor-General in Council.—Reg. X, 1822, sec. iii.

22. In the administration of criminal justice, the commissioner shall be competent to exercise all the functions and authorities now exercised by magistrates in respect to the apprehension and trial of persons charged with offences; and further to hold trials and pass sentence to the extent permitted by the Regulations to a Sessions judge; but without reference of the proceedings for futwa to a Mahomedan law officer.—Reg. X, 1822, sec. iv, cl. 1.

23. In the exercise of the powers and authorities above conveyed to the commissioner, he shall ordinarily conform to the principles and spirit of the Regulations applicable to such subjects; so likewise the police officers, and all other officers acting under his control: provided, however, that the commissioner and all such officers shall be bound to conform to any special rules or orders that may from time to time be issued by the Governor-General in Council for regulating the process before trial, or the forms of trial to be observed in the case of different classes of the population, and the same shall be to all intents and purposes legal and valid. Moreover, it shall be competent to the Governor-General in Council to extend, limit, or modify any part of the authority to be exercised by police officers, and likewise to confer on the commissioner the power of granting conditional pardon to accomplices without previous reference to the Nizamut Adawlut, as required by the existing Regulations, or in any other way to extend or modify the magisterial and judicial functions vested in the commissioner by the preceding paragraph. An order or resolution of Government, under the official signature of a secretary to Government, shall be sufficient authority for such modification; anything in Regulation XLI, 1793, or in any other Regulation of Government, to the contrary notwithstanding.—Reg. X, 1822, sec. iv, cl. 2.

24. If the commissioner shall deem an offender brought to trial before him to be liable to a punishment exceeding that which by the existing Regulations a Sessions judge is competent to adjudge, without referring the case to the Nizamut Adawlut, he shall not pass any final sentence thereon, but shall transmit to the Nizamut Adawlut the record of the proceedings held on the trial, together with a full English report of the circumstances of the case, and of his opinion as to the guilt or innocence of the prisoner or prisoners tried, as likewise an explanation of any special custom of the parties or witnesses that may be necessary to the proper understanding of the proceedings.—Reg. X, 1822, sec. iv, cl. 3.

25. Upon the receipt of any trial referred by the commissioner under the three preceding paragraphs, the Nizamut Adawlut shall, without submitting the proceedings for the futwa of their law officers, proceed to pass a final judgment, or such other order as may, after mature consideration, seem to the court requisite and proper, in the same manner, with exception to the requisition of a futwa, as if the trial had been sent up in ordinary course from a Sessions judge.—Reg. X, 1822, sec. v.

26. In the exercise of the duty of administering civil justice within the tract defined in paragraph 20, the commissioner shall hold a court, and proceed, in cases wherein persons not of the race of Garrow Mountaineers, or other rude tribes, are exclusively concerned, according to the existing Regulations, subject to the modifications provided for by this Regulation, observing as far as practicable the rules prescribed for zillah judges holding and presiding in the Adawluts of the country; provided, however, that there shall be no limit to the amount for which a suit shall be cognizable by the commissioner, and an appeal from his judgment shall not lie to the Zillah Court. If the stake or interest involved (calculated according to the rule contained in Article 8, Schedule B, Reg. X, 1829,) do not exceed in amount or value the sum of five thousand rupees, the decision passed on the case by the commissioner shall be final. If the interest involved, calculated as above, exceed in value or amount the sum of five thousand rupees, an appeal shall lie

in such cases direct to the Sudder Dewanny Adawlut, who will proceed in the hearing and adjudication thereof in the same manner as in the case of appeals entertained by the court from judgments of the Zillah Courts. The Sudder Dewanny Adawlut shall likewise be competent to grant a special appeal in cases of a less amount than five thousand rupees, should there appear, either on the face of the decree, or from circumstances established to the satisfaction of the court, substantial reason for concluding that there has been a failure of justice in the award of the commissioners.—Reg. X, 1822, sec. vi.

27. If the parties in a civil action be Garrow Mountaineers, or of any other similar rude tribe, or if either of them be of that description, the form and process that may be sanctioned and prescribed by the Governor-General in Council shall be adopted in the trial and adjudication of the matter at issue, and in the execution of the award; and any civil judgment that may be passed according to such form shall have full authority and effect in the same manner as a decree passed by a competent court of final jurisdiction.—Reg. X, 1822, sec. vii.

28. In the conduct of the revenue duties of the tract of country placed under the commissioner, as well as those relating to the customs, abkaree, stamps, and other miscellaneous items, as to the land revenue, the commissioner shall observe the rules and principles of the general Regulations, with such limitations and restrictions, as to the authority to be exercised by himself, as may be provided in the instructions he may receive from time to time from the Governor-General in Council; provided, however, that it shall be competent to the Governor-Gene al in Council to direct the separation, temporarily or permanently, of any tract of country occupied by Garrow Mountaineers or other rude tribes from the estates of any neighbouring zemindars to which the same may now be claimed to be attached; also to discontinue the collection by zemindars or others of any cesses, tributes, or exactions, on whatsoever pretence the same may be levied from such people, and to make arrangements either for the remission of the same, or for their collection direct by the officers of Government, making such compensation to zemindars or others justly entitled thereto for the relinquishment of the same, as may to him seem most equitable and proper.—Reg. X, 1822, sec. viii, cl. 1.

29. No suit or action shall be entertained by any civil court having jurisdiction, or that may hereafter have jurisdiction, within the tract of country subject to the authority of the commissioner, on account of any act of the above description done under the authority of the Governor-General in Council.—Reg. X, 1822, sec. viii, cl. 2.

30. In all matters connected with the tract of country specified in paragraph 20 or with the races of mountaineers and rude tribes above described, if from the want of any special provision, or from doubts as to the applicability of the rules in existence, any difficulty shall arise as to the course to be pursued, a reference shall be made to the Governor-General in Council, to whom it shall be competent to prescribe, by an order under the official signature of a secretary to Government, what specific measures shall be adopted in the particular instance, as well as to annul, modify, and explain any existing rules or orders.—Reg. X, 1822, sec. ix.

*Chinsurah.*

31. The town and settlement of Chinsurah shall be annexed to and included in the zillah of Hooghly.—Reg. XVIII, 1825, sec. ii, cl. 1.

32. The late Dutch factories at Calcapore and Dacca, and the lands appertaining to them, shall be annexed to the city jurisdictions of Moorshedabad and Dacca respectively; those at Fulta and Balasore shall be annexed to the zillah jurisdictions of the Twenty-four Pergunnahs and Cuttack respectively; and the late Dutch factory at Patna, and the lands appertaining to it, shall be annexed to the jurisdiction of the city of Patna.—Reg. XVIII, 1825, sec. ii, cl. 2.

33. Subject to the provisions contained in this Regulation, the rules for the administration of civil and criminal justice and the police in the provinces of Bengal, Behar, and Orissa, as well as those for the collection of the land revenue, customs, abkaree, and stamp revenues, and generally the whole of the Regulations in force for the internal administration of the provinces above mentioned (the special rules for Cuttack only excepted), are declared to be in full force and effect in the settlement and territories specified in the two preceding paragraphs, from the date of the promulgation of this Regulation (25th August, 1825).—Reg. XVIII, 1825, sec. iii.

34. In all civil suits determined after the promulgation of this Regulation, the general rules in force for appeals will of course be applicable.—Reg. XVIII, 1825, sec. iv, cl. 5.

35. The Civil Courts of Judicature are prohibited from entertaining any claim or suit which, from the production of a former decree, or from the records of court, shall appear to have been finally heard and determined by any former judge, or superintendent of any court of competent jurisdiction. If any doubt should arise respecting the competency of the former jurisdiction, the case shall be reported for the instructions of the Governor-General in Council, whose determination upon this point shall be conclusive.—Reg. XVIII, 1825, sec. v.

36. All deeds of whatever denomination, whether written on stamp paper, or otherwise, that may have been regularly and legally executed according to the Dutch law, or established local usage, previously to the promulgation of this Regulation, are hereby declared to be valid, and the several Courts of Civil Judicature are empowered and directed to admit such deeds in evidence; and in any judicial proceedings that may be held on such documents, the courts are to be governed by the law and usage under which the same were prepared and executed.—Reg. XVIII, 1825, sec. vi.

37. In the decision of all civil suits regarding succession, inheritance, marriage, and special contract, in which the parties may be Europeans, heretofore subject to the Netherlands authorities, or their descendants, and as well as generally in all cases where the parties may be Europeans, or foreigners of any description, or their descendants, the courts shall be guided, as far as practicable, by the spirit of the rule prescribed in section xv, Regulation IV, 1793 ("PROCEDURE ON THE TRIAL OF ORIGINAL SUITS," paragraph 230), which directs, that "in suits regarding succession, inheritance, marriage, and caste, and all religious usages and institutions, the Mahomedan laws with respect to Mahomedans, and the Hindoo laws with regard to Hindoos, are to be considered the general rules by which the judges are to form their decisions."—Reg. XVIII, 1825, sec. vii.

38. In all criminal trials for offences committed before the promulgation of this Regulation, whenever it may appear that the punishment of the offence, under the provisions of this Regulation, would be more severe than the punishment prescribed for the same offence under the laws in force when the settlement and territories referred to in this Regulation came into the possession of the British Government, the punishment to be adjudged against the prisoner shall be regulated by the law which was in use when the said territories came into the possession of the British Government.—Reg. XVIII, 1825, sec. viii.

39. An officer, to be denominated "the Dutch Law Officer or Fiscal," shall be appointed by the Governor-General in Council, on the establishment of the judge of zillah Hooghly; and it shall be his duty to expound the laws and usages of the settlement of Chinsurah, and its late dependencies, in all cases that may be submitted to him, either by the civil or criminal courts.—Reg. XVIII, 1825, sec. ix, cl. 1.

40. It shall be the further duty of the "fiscal" to furnish translations of all papers filed in the Dutch language, and to interpret them truly to the respective courts, as well as generally to perform such other duties as may be especially assigned to him by the local judge or magistrate.—Reg. XVIII, 1825, sec. ix, cl. 2.

41. Provided always, that the particular law, custom, or usage which may have influenced the final judgment of the court, shall be specifically stated or referred to in the decree, sentence, or order affected thereby, and the fiscal's written opinion shall remain attached to and be constantly kept with the record of the case.—Reg. XVIII, 1825, sec. ix, cl. 3.

42. The fiscal, or Dutch law officer, shall moreover, by virtue of his office, be deemed a sudder ameen, with the full powers invested in judicial officers of that description by Regulations II and III, 1821 ("CIVIL COURTS CONSTITUTION AND JURISDICTION" and "MAGISTRATES"), within the town and settlement of Chinsurah; in this capacity he shall be employed in the trial and decision of any suits or cases, civil or criminal, that may, under the general Regulations, be referred to him as sudder ameen, by the zillah judge or magistrate respectively; and shall be governed in the trial and decision of such cases by the rules and Regulations which are or may be in force for the guidance of sudder ameens.—Reg. XVIII, 1825, sec. ix, cl. 4.

*Cossyah Hills.*

43. The functionaries who are or may be appointed to the political charge of the Cossyah Hills, or to the superintendence of the territory of Cachar, are placed under the control and superintendence, in civil cases, of the Court of Sudder Dewanny Adawlut, and in criminal cases, of the Court of Nizamut Adawlut; and the officers so appointed in the territory of Cachar are placed, in revenue cases, under the control and superintendence of the Sudder Board of Revenue, and such control and superintendence of the Sudder Court and Board shall be exercised in conformity with such instructions as the said functionaries may have received, or may hereafter receive, from the Government of Fort William, in Bengal.—Act VI, 1835.

*Bhuttee Territory.*

44. From and after the 1st day of January, 1847, the provisions of Regulation V, of 1832, of the Bengal code, shall cease to have effect in the Bhuttee territory, consisting of the following pergunnahs:

| | | |
|---|---|---|
| Durbah, | Sirsa, | Raneeah, |
| Goodah, | Mullout, | Wuttoo. |

—Act VI, 1846, sec. i.

45. From and after the said day the administration of civil and criminal justice, the superintendence of the police, and the collection and superintendence of the revenues of every description

within the said territory, shall vest in such agent as the Governor-General of India in Council shall appoint, and shall be exercised by the said agent with the aid of such assistants as shall be appointed by the said Governor-General of India in Council.—Act VI, 1846, sec. ii.

46. It shall be competent to the said Governor-General of India in Council to prescribe such rules as he may deem proper for the guidance of the agent aforesaid, and of all the officers subordinate to his control and authority, in all judicial and revenue proceedings, and to determine to what extent the decision of the agent in civil suits shall be final, and in what suits an appeal shall lie to the Sudder Dewanny Adawlut, and to define the authority to be exercised by the agent in criminal trials, and what cases he shall submit to the decision of the Nizamut Adawlut.—Act VI, 1846, sec. iii.

47. Upon the receipt of any criminal trials referred by the agent under the rules which may be hereafter prescribed by the said Governor-General of India in Council, the Nizamut Adawlut shall proceed to pass a final judgment, or such other order as may, after mature consideration, seem to the court requisite and proper, and in conformity with the prescribed rules.—Act VI, 1846, sec. iv.

48. Upon the receipt of any appeal from a decree of the agent duly preferred under the rules to be prescribed as aforesaid, the Court of Sudder Dewanny Adawlut shall proceed to try and determine it as to them may seem right and proper, and in conformity with the prescribed rules.—Act VI, 1846, sec. v.

*Ramghur and Jungle Mehauls.*

49. The under mentioned tracts of country at present included in the districts of Ramghur, Jungle Mehauls, and Midnapore, shall be separated from those districts, and the operation of the rules for the administration of civil and criminal justice, as well as those for the collection of the land revenue, customs, abkarry, and stamp revenue, together with all other rules contained in the Regulations printed and published in the manner prescribed by Regulation XLI, 1793, is suspended, and shall cease to have effect therein from the date on which the agent to the Governor-General may assume charge of the new jurisdiction, except as hereinafter provided.

In the district of Ramghur—Chota Nagpore, Palamow, Kurruckdeea, Ramghur, Koonda.

In the district of Jungle Mehauls. All the mehauls at present comprised in this district, except the following: Sainpaharee, Sheerghur, Bishenpore.

In the district of Midnapore—Dhulbhoom, including Ghatssela.—Reg. XIII, 1833, sec. iii.

50. The administration of civil and criminal justice, the collection of revenue, the superintendence of the police, of the land revenue, customs, abkarry, stamps, and every branch of Government within the tracts of country separated as prescribed in the foregoing paragraph, shall be vested in an officer appointed by the Governor-General in Council.—Reg. XIII, 1833, sec. iv.; and Act XX, 1854, sec. i.

51. It shall be competent to the Governor-General, by an order in council, to prescribe such rules as he may deem proper for the guidance of the agent and all the officers subordinate to his control and authority, to determine what powers shall be exercised by the agent and his assistants respectively, also to determine to what extent the decision of the agent in civil suits shall be final, and in what suits an appeal shall lie to the Sudder Dewanny Adawlut, and to define the authority to be exercised by the agent in criminal trials, and what cases he shall submit for the decision of the Nizamut Adawlut.—Reg. XIII, 1833, sec. v.

52. Upon the receipt of any criminal trials referred by the agent under the rules which may be hereafter prescribed by the Governor-General, by an order in council, the Nizamut Adawlut shall, without submitting the proceedings for the futwa of their law officers, proceed to pass a final judgment, or such other order as may, after mature consideration, seem to the court requisite and proper, in the same manner as if the trial had been sent up in ordinary course from a commissioner on circuit.—Reg. XIII, 1833, sec. vi.

53. It shall be competent to the Governor-General, by an order in council, to annex to any zillah he may deem proper, that portion of the Ramghur and Jungle Mehaul districts which is not by this Regulation included in the jurisdiction of the agent to the Governor-General, and to make from time to time such alterations in the limits of the district placed under the agent, or of any of the adjacent zillahs, as he may deem expedient.—Reg. XIII, 1833, sec vii.

54. The duties prescribed by paragraph 50 shall be vested in any officer whom the local government shall from time to time appoint for that purpose, and such officer, when appointed, and his assistants respectively, may exercise within the tracts of country separated as prescribed in paragraphs 49 to 53, all the powers which by the said paragraphs the agent to the Governor-General and his assistants respectively may exercise, and all the provisions in the said paragraphs relating to the agent to the Governor-General and his assistants, shall be applicable to the officer to be appointed as aforesaid, and his assistants respectively.—Act XX, 1854, sec. ii.

*Pergunnahs Sonk, Sonsa, and Sahar.*

55. The pergunnahs of Sonk, Sonsa, and Sahar shall be annexed to the jurisdiction of the zillah of Agra.—Reg. XII, 1806, sec. ii.

56. Regulations IX, 1804, VIII, IX, and XI, 1805, and the several Regulations therein referred to, together with such other Regulations applicable to the conquered provinces situated within the Dooab and on the right bank of the river Jumna as have been or may be hereafter enacted, shall be in force in the pergunnahs mentioned in the foregoing paragraph; and the periods prescribed for the operations of the said Regulations in the conquered provinces (with the exceptions hereafter specified) are hereby declared to be applicable to the pergunnahs aforesaid.—Reg. XII, 1806, sec. iii.

57. Instead of the date specified in section xi, Regulation IX, 1804, the 17th of April, 1805, being the date of the treaty concluded with the Rajah of Bhurtpore, shall be considered the period of limitation for taking cognizance of crimes and offences committed in the pergunnahs mentioned in paragraph 55. Persons convicted of crimes or offences committed in the said pergunnahs between the 17th of April, 1805, and the date of the promulgation of this Regulation (3rd July, 1806), shall be subject to the rules provided in similar cases in the conquered provinces, by section xi, Regulation IX, 1804. In like manner, the 17th of April, 1805, shall be considered the period of limitation for taking cognizance of civil suits in the said pergunnahs, in lieu of the date specified in clause 2, section vi, Regulation VIII, 1805, (CIVIL JUDICATURE, Appendix, *paragraph* 12).—Reg. XII, 1806, sec. iv.

58. Instead of the periods prescribed by sections iii, iv, and v, Regulation IX, 1805, ("SETTLEMENT,") for concluding the periodical settlements of the land revenue in the conquered provinces, the three succeeding settlements of the land revenue in the pergunnahs mentioned in paragraph 342, shall be concluded for the following periods of time: first, for the years 1214 and 1215, Fussily; second for the years 1216, 1217, and 1218, Fussily; and thirdly, for the years 1219, 1220, 1221, and 1222, Fussily; under the terms and conditions specified in the proclamation contained in Regulation IX, 1805.—Reg. XII, 1806, sec. v.

59. The 17th of April, 1805, shall be the date to be adopted in the pergunnahs mentioned in paragraph 55, in lieu of the date specified in clause 1 of section ii, Regulation XXXIV, 1803 ("RULES COMMON TO COURTS OF ORIGINAL AND APPELLATE JURISDICTION"); and the 1st of January, 1807, shall be adopted in the said pergunnahs, in lieu of the date specified in sections vii and viii of the Regulation aforesaid.—Reg. XII, 1806, sec. vi.

60. Regulation XL, 1803, shall not be in force in the pergunnahs mentioned in paragraph 55, until the commencement of the year 1214, Fussily.—Reg. XII, 1806, sec. vii.

*Pergunnah Handya.*

61. The pergunnah of Handya shall be annexed to the district of Allahabad, and the laws and Regulations established for the internal administration of that district are hereby declared to be in full force and effect in pergunnah Handya; subject, however, to the provisions contained in the following paragraphs.—Reg. XVIII, 1816, sec. ii.

62. The Courts of Civil Judicature shall not be deemed competent to take cognizance of civil claims in pergunnah Handya, the cause of action in which may have originated previously to the 1st of May, 1804, being a period of twelve years antecedent to the cession of that pergunnah.—Reg. XVIII, 1816, sec. iii.

63. The Courts of Criminal Judicature are hereby prohibited from taking cognizance of any crime or offence which may have been committed in any part of the said pergunnah, previously to the 1st of May, 1816, being the date of the treaty between the British Government and his Excellency the Vizier, under which the said pergunnah was ceded to the Honourable the East India Company.—Reg. XVIII, 1816, sec. iv. cl. 1.

64. No part of the Regulations in force, by which the punishment of any offence is enhanced beyond the punishment prescribed for such offence by the Mahomedan law, shall be considered applicable to any crime or offence committed within pergunnah Handya between the 1st of May, 1816, and the period of the promulgation of this Regulation (16th August, 1816).—Reg. XVIII, 1816, sec. iv. cl. 2.

65. The provisions of the Regulations in force, by which the penalties prescribed by the Mahomedan law for the punishment of crimes and offences have been modified in a manner favourable to the prisoner, either by directing a commutation of the punishment of amputation to imprisonment or otherwise, shall nevertheless be considered applicable to individuals who may be convicted of having committed offences in pergunnah Handya, between the 1st of May, 1816, and the period of the promulgation of this Regulation.—Reg. XVIII, 1816, sec. iv, cl. 3.

66. The Governor-General in Council reserves to himself the power of fixing the periods, for

which the settlement of the land revenue shall from time to time be formed in the said pergunnah, according as local circumstances may appear to require, adhering, however, as nearly as practicable, to the principles established for the settlement generally of the lands in the territories ordinarily denominated the Ceded and Conquered Provinces.—Reg. XVIII, 1816, sec. v.

*Pergunnah Goberdhun.*

67. The pergunnah of Goberdhun shall be annexed to the district of Agra, and the laws and Regulations established for the internal administration of that district are hereby declared to be in force and effect in pergunnah Goberdhun, from and after the promulgation of this Regulation (22nd June, 1826); subject, however, to the provisions contained in the following paragraphs.—Reg. V, 1826, sec. ii.

68. The Courts of Civil Judicature shall not be deemed competent to take cognizance of civil claims in pergunnah Goberdhun, the cause of action in which may have originated previously to the 25th January, 1814, being a period of twelve years antecedent to the date on which that pergunnah was resumed.—Reg. V, 1826, sec. iii.

69. The Courts of Criminal Judicature are hereby prohibited from taking cognizance of any crime or offence committed in any part of the said pergunnah previously to the 25th January, 1826, the date on which that pergunnah was resumed.—Reg. V, 1826, sec. iv.

70. The Governor-General in Council reserves to himself the power of fixing the periods for which the settlement of the land revenue shall from time to time be formed in the said pergunnah, according as local circumstances may appear to require, adhering, however, as nearly as practicable, to the principles established for the settlement generally of the lands in the territories ordinarily denominated the Ceded and Conquered Provinces.—Reg. V, 1826, sec. vi.

*Elakeh of Khundeh.*

71. The elakeh of Khundeh, appertaining to the pergunnah of Mahoba, together with certain villages belonging to the pergunnah of Choorkee, on the right bank of the Jumna, are hereby annexed to the district of Bundlecund, and the laws and Regulations established for the internal administration of that district are declared to be in full force and effect in the elakeh and villages in question; subject, however, to the provisions contained in the following paragraphs.—Reg. II, 1818, sec. ii.

72. The Courts of Civil Judicature are prohibited from commencing the exercise of their jurisdiction until they shall be officially apprised by Government, that the first settlement of the revenue of the said elakeh and villages has been completed and duly sanctioned.—Reg. II, 1818, sec iii, cl. 1.

73. The Courts of Civil Judicature shall not be deemed competent to take cognizance of civil claims in the elakeh and villages in question, the cause of action in which may have originated previously to the 1st of November, 1805, being a period of twelve years antecedent to the cession of the elakeh and villages in question.—Reg. II, 1818, sec. iii, cl. 2.

74. The Courts of Criminal Judicature are hereby prohibited from taking cognizance of any crime or offence which may have been committed in any part of the said elakeh and villages previously to the 1st of November 1817, being the date of the treaty between the British Government and Nana Govind Row, under which the elakeh of the Khundeh and villages in question were ceded to the Honourable the East India Company.—Reg. II, 1818, sec. iv, cl. 1.

75. No part of the Regulation in force, by which the punishment of any offence may be enhanced beyond the punishment prescribed for such offence, according to the existing laws and usages of the said elakeh and villages, shall be considered applicable to any crime or offence committed within the said elakeh and villages between the 1st of November, 1817, and the period of the promulgation of this Regulation (31st March, 1818).—Reg. II, 1818, sec iv, cl. 2.

76. In cases, however, in which the penalties established by the existing Regulations may appear to be more lenient than those to which the offenders would have been subject under the pre-existing laws and usages of the said elakeh and villages, such offenders shall, nevertheless, have the benefit of the provisions now established, supposing the offences to have been committed between the 1st of November, 1817, and the period of the promulgation of this Regulation (31st March, 1818).—Reg. II, 1818, sec. iv, cl. 3.

77. The Government reserves to itself the power of fixing the periods for which the settlement of the land revenue shall from time to time be formed in the said elakeh and villages, according as local circumstances may appear to require; adhering, however, as nearly as practicable, to the principles established for the settlement generally of the lands in the territories ordinarily denominated the Ceded and Conquered Provinces.—Reg. II, 1818, sec. v, cl. 1.

78. Provided also, that such part of the Regulations in force within the district of Bundlecund, as relates to the collection of sayer, rahdaree, and other duties of a similar nature, or to the form of engagements to be executed by or between zemindars, farmers, and ryots, or other proprietors, occupants, or cultivators of land, shall take effect within the said elakeh of Khundeh and villages aforesaid from the commencement of the ensuing Fussily year.—Reg. II, 1818, sec. v, cl. 2.

79. There being grounds to believe that many of the estates composing the above-mentioned tract of country are held by numerous proprietors in joint-tenancy, it shall be the particular duty of the revenue authorities administering the affairs of the said elakeh and villages, to adopt such measures as may appear best calculated for ascertaining, recording, and securing the customary rights, privileges, and interests of the several classes of proprietors and occupants of land, and especially of all putteedars or other parceners in joint undivided estates.—Reg. II, 1818, sec. vi.

*Jaghire of Amrut Rao.*

80. Whereas a tract of land situated near the town of Teroha, in the district of Banda, was granted as an independent Jagheer by the British Government to the Maharajah Imrit Rao, and whereas by Regulation VII, of 1816, of the Bengal Code, it was enacted that from and after the date of that Regulation, the jurisdiction of the Courts of Civil and Criminal Judicature and the operation of the general Regulations, should not extend to the tract of land aforesaid, and whereas Maharajah Benaik Rao, son of the said Maharajah Imrit Rao, died on the 6th day of July 1853, and it is now expedient to repeal the above-mentioned Regulation; It is enacted as follows,—Act XVII, 1853. Preamble.

81. Regulation VII, of 1816, of the Bengal Code, is hereby repealed.—Act XVII, 1853, sec. i.

82. The said tract of land, being part of the district of Banda, all laws and Regulations now in force within that district shall be in force in the said tract of land.—Act XVII, 1853, sec. ii.

83. All cases, civil or criminal, in which the cause of action arose, or the offence was committed, within the said tract of land, before the passing of this Act (18th November 1853), may be tried and determined by the courts of the said district of Banda, and the general laws and Regulations now in force there may be applied and administered by the said courts in the trial and determination of such cases; but if in any civil case it shall appear that the application of the said laws and Regulations would operate unjustly if applied to the trial and determination thereof, it shall be lawful for the said courts to try and determine the same according to equity and good conscience.—Act XVII, 1853, sec. iii.

84. Provided always, that no court shall try or determine any case civil or criminal, with respect to which a final decision was pronounced previously to the said 6th day of July 1853, by any court or person within the said tract of land, having at the time of the decision lawful power and authority to pronounce it; and that with the exception of cases within the provisions of Section iv, of the said Regulation VII, of 1816, no act committed within the said tract of land prior to the 31st day of August, 1853, shall be deemed an offence punishable under the provisions hereof, if at the time of the commission of such act the same was not contrary to the laws then in force in the said tract of land.—Act XVII, 1853, sec. iv.

85. Nothing in this Act shall extend to any crime or offence within the provisions of Sections iii, or iv, of the said Regulation, committed before the passing of this Act; but every such crime or offence shall be dealt with and punished as if this Act had not been passed.—Act XVII, 1853,

*Jaghire of Begum Sumroo.*

86. Whenever the Governor-General in Council shall order that any of the territories which were lately held by the Begum Sumroo, and which lapsed to the East India Company, on the 27th of January, 1836, shall be annexed to any district under the Government of the said Company, all laws and Regulations now in force within such district shall be in force in the territories so annexed to such district.—Act XVII, 1836, sec. i.

87. The Criminal Courts shall not take cognisance of any offence committed in the said territories previously to the 27th January, 1836, unless specially empowered by the Governor-General so to do.—Act XVII, 1836, sec. ii.

88. No Court of Civil Judicature shall take cognisance of any claim within the said territories, with respect to which claim a final decision may have been previously pronounced by any court, which at the time of pronouncing such decision was competent to pronounce such decision.—Act XVII, 1836, sec. iii.

*Jaghire of Bajee Row.*

89. The tract of land granted as a jaghire to the Maharajah Bajee Row Behadoor, being part of the district of Cawnpore, all laws and Regulations now in force within such district shall be in force in the said tract of land.—Act IX, 1852, sec. ii.

90. All cases, civil and criminal, in which the cause of action arose or the offence was committed within the said tract of land before the passing of this Act (6th February, 1852), may be tried and determined by the courts of the said district of Cawnpore, and the general laws and Regulations now in force in such district may be applied and administered by the said courts in the trial and determination of such cases; but if in any case it shall appear that the application of the said laws and Regulations would operate unjustly if applied to the trial and determination of such case, it shall be lawful for such courts to try and determine the same according to equity and good conscience.—Act IX, 1852, sec. iii.

91. Provided always, that no court shall try or determine any case, civil or criminal, with respect to which a final decision may have been pronounced previous to the 28th day of January, 1851, the date of the death of the said Maharajah Bajee Row Behadoor, by any court or person within the said tract of land, having at the time of such decision lawful power and authority to pronounce it.—Act IX, 1852, sec. iv.

*Certain Territories in Bundlekund.*

92. The territories and jaghires at present in the possession of the under-mentioned chieftains and jaghiredars are hereby declared to have always been, and still to be, exempted from the operation of the general Regulations, and from the jurisdiction of the Courts of Civil and Criminal Judicature, viz.:

The territory of Rajah Kishore Sing, the Rajah of Punnah, including the talook of Shewrajapore, for which a fixed tribute is paid by him through the channel of the agent to the Governor-General in Bundlecund.

Ditto of Rajah Bukht Sing, the Rajah of Kotra and Adjey Ghur, including the Tuppa of Bechoun and the talook of Corah, for which a fixed tribute is paid by him through the agent to the Governor-General in Bundlecund.

Ditto of Rajah Bickurmajit Bedjey Bahauder, the Rajah of Churkarry, including the talooks of Chundellah and Berna, for which a fixed tribute is paid by him through the agent to the Governor-General in Bundlecund.

Ditto of Rajah Kisseree Sing, the Rajah of Jeytpore.

Ditto of Rajah Ruttun Sing, the Rajah of Bijawur.

Ditto of Rajah Teje Sing, the Rajah of Sindelah.

Ditto of Rajah Mohun Sing, the Rajah of Barounda.

The jaghire of Dewan Joogul Pershaud, the jaghiredar of Berree, &c.

Ditto of Dewan Bunkut Rao, jaghiredar of Beyhit, &c., the son of Dewan Aperbul Sing, deceased.

Ditto of Rao Punchum Sing, jaghiredar of Alleepoora, the son of Dewan Purtaub Sing, deceased.

Ditto of Dewan Dheraj Sing, jaghiredar of Logassee, &c.

Ditto of Rao Perthee Sing, jaghiredar of Jeegnee, &c.

Ditto of Chobey Dereao Sing, jaghiredar of Baldeo, &c.

Ditto of Chobey Salligram, jaghiredar of Cusbah Poorwah, &c.

Ditto of Chobey Nawul Kishore, jaghiredar of Bhysont, &c.

Ditto of Chobey Chuttersaul, jaghiredar of Nowgong, &c.

Ditto of Chobey Gyapershaud, jaghiredar of Terrow, &c.

Ditto of Chobey Pokerpershaud, jaghiredar of Parwah, &c.

Ditto of Gopaul Laul, jaghiredar of Kamtah and Rajowlah.

Ditto of Takwoor Doorjun Sing, jaghiredar of Myher, &c.

Ditto of Lal Sheorauge Sing, jaghiredar of Oochar, &c.

Ditto of Lal Amaun Sing, jaghiredar of Sahawaul, &c.

Ditto of Lal Doonaput, jaghiredar of Kothee, &c.

Ditto of Rajahram Killadar, jaghiredar of Muneearrah, &c.

Ditto of Pursram Bahadar, jaghiredar of Khuddeo, &c.

Ditto of Koor Juggut Sing, jaghiredar of Neyah Gong, &c., son of Luchmun Lungrah, deceased.

Ditto of Dewan Bahadar Gopaul Sing, jaghiredar of Gudrautee, &c.

Provided, however, that in cases in which any of the said chieftains or jaghiredars, or their

successors, may have acquired or may hereafter acquire any other villages or lands situated within the limits of the British possessions than the territories and jaghires above specified, they shall, in common with all other native British subjects, be considered amenable to the jurisdiction of the established Courts of Judicature, and subject to the operation of the general Regulations in regard to all acts done by them in the said villages and lands which they may respectively possess.—Reg. XXII, 1812, sec. ii.

93. The portion of the lands constituting the jaghire of the late killadar of Calenger which has been ceded to the British Government, is hereby annexed to the zillah of Bundlecund.—Reg. XXII, 1812, sec. iii.

94. The laws and Regulations established for the internal administration of the zillah of Bundlecund are hereby declared to be in full force and effect in the lands specified in the preceding paragraph: Provided, however, that nothing herein contained shall be construed to authorize the magistrate or the Courts of Criminal Judicature to take cognizance of any crime or offence committed in any part of the said lands previously to the 19th of June, 1812, being the date of the engagement under which they were ceded to the British Government; provided, likewise, that the Courts of Civil Judicature shall not be deemed competent to take cognizance of any civil suit, if the cause of action shall have arisen previously to the 19th of June, 1800, being a period of twelve years antecedent to the cession, as above specified.—Reg. XXII, 1812, sec. iv.

*Saugor and Nerbudda Territories.*

95. The administration of the police, and of criminal justice in the Saugor and Nerbudda territories, has been heretofore conducted by British officers under instructions issued for their guidance by the Governor-General in Council; but it is hereby declared that from and after the date of the promulgation of this Regulation (1st November, 1831), as regards criminal matters, those territories shall be subject to the Nizamut Adawlut for the Western Provinces.—Reg. VI, 1831, sec. x.

96. The commissioner to whom the superintendence of the territories in question is or may be confided, is hereby declared competent to hold trials and pass sentence to the extent permitted by the Regulations to a commissioner of circuit (but without reference of the proceeding for futwa to a Mahomedan law officer), as well as to exercise all the functions and authorities now exercised by the commissioners of circuit under Regulation I of 1829.—Reg. VI, 1831, sec. xi.

97. If the commissioner shall deem an offender brought to trial before him to be liable to a punishment exceeding that which by the existing Regulations a sessions judge is competent to adjudge, without referring the case to the Nizamut Adawlut, he shall not pass any final sentence thereon, but shall transmit to the Nizamut Adawlut for the Western Provinces the record of the proceedings held on the trial, together with a full English report of the circumstances of the case, and of his opinion as to the guilt or innocence of the prisoner or prisoners tried, as likewise an explanation of any special custom of the parties or witnesses that may be necessary to the proper understanding of the proceedings.—Reg. VI, 1831, sec. xii.

98. Upon the receipt of any trial referred by the commissioner under the preceding paragraph, the Nizamut Adawlut in the Western Provinces shall, without submitting the proceedings for the futwa of their law officers, proceed to pass a final judgment, or such other order as may, after mature consideration, seem to the court requisite and proper, in the same manner as if the trial had been sent up in ordinary course from a sessions judge.—Reg. VI, 1831, sec. xiii.

99. In the conduct of criminal trials, and in all other matters, the commissioner, as well as the police officers, and all other officers acting under his control, shall ordinarily conform to the principles and spirit of the Regulations applicable to such subjects, and shall regularly furnish to the Nizamut Adawlut in the Western Provinces all such statements and reports as are prescribed by the existing Regulations, to be submitted by the sessions judge, or as may be specially prescribed in future by the authority to whom, by this Regulation, they are declared to be subordinate.—Reg. VI, 1831, sec. xiv.

100. Provided, however, that it shall be competent to the Governor-General in Council to issue any special rules or orders that may, from time to time, be deemed necessary for regulating the process before trial, or the form of trial, to be observed within the territories subject to the commissioner, as well as to extend or modify the judicial functions vested in the commissioner by the preceding provisions. An order or resolution of Government, under the official signature of a secretary to Government, shall be sufficient authority for such extension or modification.—Reg. VI, 1831, sec. xv.

*Commissioner in Cuttack.*

NOTE.—The office of Commissioner of Cuttack was established as a temporary measure, and for special purposes, by the following Regulation, with large powers, including those of the Revenue Board, and the Provincial Court of Appeal and Circuit; and these powers were confirmed, with slight modifications of his civil jurisdiction, by sec. viii, Reg. I, 1829, which appointed Commissioners of Revenue and Circuit for divisions throughout the provinces. Regulation I, 1830, relieved the Commissioner of the 19th Division from part of his local jurisdiction, but no enactment of subsequent date has declared to what extent the powers recognized by sec. viii, Regulation I, 1829, are still retained, or annulled. As the modifications consequent on the abolition of the Provincial Courts of Appeal and Circuit, and the discontinuance of the exercise of the functions of circuit judge by the Commissioners, will not dispose of the whole questions of the jurisdiction of the Commissioner of Cuttack, the original Regulation is here given entire.

101. Whereas considerations connected with the present state of the district of Cuttack, and with the nature of the disturbances which recently prevailed in various parts of that district, have rendered it expedient that a commissioner should be deputed for the temporary superintendence of the civil affairs of the said district; and whereas it is necessary, with a view to the prompt and effectual execution of the important duties assigned to the commissioner, that he should be vested with special powers as well in the administration of civil and criminal justice, as in the superintendence of other local duties hitherto conducted by the Boards of Revenue and Trade; the Vice-President in Council has been pleased to enact the following rules, to be in force within the local limits of the district of Cuttack, from the date on which the commissioner may assume the charge of his office.—Reg. V, 1818. Preamble.

102. The provisions of the existing Regulations, by which the Board of Revenue, the Board of Trade, the Provincial Court of Appeal and Circuit for the division of Calcutta, and the local committee for superintending the embankments, are respectively authorized or directed to exercise any powers or functions, or to discharge any duties in the administration of the civil affairs of the district of Cuttack, are hereby suspended.—Reg. V, 1818, sec. ii.

103. A commissioner shall be deputed to the district of Cuttack, who shall be authorized, from the date on which he may assume the charge of his office, to exercise and discharge the whole of the powers and duties heretofore exercised and dicharged with regard to the affairs of that district under the Regulations in force, by the Board of Revenue, by the Board of Trade, by the judges of the Provincial Court of Appeal for the division of Calcutta, either individually or collectively, and by the judges of the Court of Circuit for the division of Calcutta, either individually or collectively, and by the Local Committee of Embankments.—Reg. V, 1818, sec. iii.

104. The foregoing provisions shall not operate to prevent the judge of circuit, who is now holding the sessions of jail delivery of the zillah of Cuttack, from completing that duty under the Regulations heretofore in force; but from and after the completion of the present sessions, the sessions of jail delivery of the zillah of Cuttack shall be held from time to time by the commissioner, at such periods as he may judge most expedient for the public service.—Reg. V, 1818, sec. iv.

105. The records of civil suits of every description, originating in the district of Cuttack, which may be depending before the Provincial Court for the division of Calcutta, whether in appeal from the decision of the Zillah Court of Cuttack, or instituted in the first instance in the Provincial Court, shall be transferred to the commissioner; and such cases, as well as all other civil cases coming under his cognizance, shall be investigated and decided by him, at any place or places situated within the limits of the district of Cuttack, under the same powers as are vested in the judges of the Provincial Court, either individually or collectively.—Reg. V, 1818, sec. v, cl. 1.

106. The pleadings and the management of suits which may be brought under the cognizance of the commissioner in Cuttack shall be conducted, either by the parties themselves, or by agents duly authorized by them for that purpose; and it shall not be requisite that any regular pleaders should be attached to the court of the commissioner, or that any duties in the court of the commissioner should be performed by such pleaders.—Reg. V, 1818, sec. v, cl. 2.

107. The commissioner in Cuttack shall be empowered to dispense with the rules contained in sections iii, iv, v, vi, and vii, Regulation XXVIII, 1814, ("PROCEDURE ON THE TRIAL OF ORIGINAL SUITS") in all instances in which he may judge it expedient to permit persons to sue either in his own court or in the Zillah Court of Cuttack, as paupers, without requiring such persons to fulfil the conditions specified in those sections.—Reg. V, 1818, sec. v, cl. 3.

108. The commissioner in Cuttack, and the judge and magistrate of that district, shall also be respectively empowered to dispense with the rule contained in section xix, Regulation XXVIII, 1814, ("STAMPS") in all instances in which they may judge it expedient.—Reg. V, 1818, sec. v, cl. 4.

109. The orders and decisions passed by the commissioner, in original civil suits, or in appeals cognizable by him, whether regular or summary, shall be to all intents and purposes final and conclusive: Provided, however, that an appeal shall lie to the Sudder Dewanny

Adawlut, from the decisions of the commissioner on civil suits, which from their amount or value may be appealable to the King in Council, under the provisions of the existing Regulations.—Reg. V, 1818, sec. v, cl. 5.

110. Nothing contained in this Regulation shall be construed to affect or alter the powers vested in the Court of Nizamut Adawlut with regard to the administration of criminal justice in the district of Cuttack; and the commissioner in Cuttack will stand in the same relation to the Court of Nizamut Adawlut, as the judges of the Provincial Court of Circuit for the division of Calcutta have hitherto stood either in their individual or in their collective capacity.—Reg. V. 1818, sec. vi.

111. The provisions of Regulation XXII, 1817, are hereby rescinded, and the commissioner in Cuttack shall exercise the same powers in confirming the appointment and removal of the native officers of the judge and magistrate of Cuttack, as are exercised by the Provincial Courts of Appeal and Circuit, with regard to the appointment and removal of the native officers on the establishment of the zillah judges and magistrates generally.—Reg. V, 1818, sec. vii.

112. The judge and register of zillah Cuttack are hereby empowered to hold their court for the investigation of summary suits regarding rent or dispossession from lands, in any part of the district of Cuttack; and it shall be competent to the commissioner, with the sanction of the Governor-General in Council, to employ the registers or the assistants to the judge and magistrate of Cuttack, on local duties in the territorial department, when such employment shall appear calculated to promote the public service.—Reg. V, 1818, sec. viii.

# MILITARY.

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GOVERNMENT OF BENGAL

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# MILITARY.

## COURTS MARTIAL AND OTHER MILITARY COURTS FOR THE TRIAL OF OFFENCES.

1. Whenever a detachment of the Bengal native troops may be on foreign service, or at Prince of Wales' Island, Fort Marlborough, Malacca, or any other part of the British possessions beyond sea, the Commander in-Chief of the forces in Bengal shall have power to issue his warrant to the officer commanding in chief where such detachment is stationed or serving, authorizing him to convene native general courts-martial as occasion may require The Commander-in-Chief may also delegate by his warrant to such commanding officer, either absolutely or under such restriction as he shall think fit, the power of confirming or directing the revision of the sentence of courts-martial —Reg II, 1809, sec ii.

2 A native general court-martial shall not consist of fewer than nine native commissioned officers, subadars, or jemadars, unless such court-martial be holden by virtue of a warrant from the Commander-in-Chief, in the situations and under the circumstances mentioned in the preceding paragraph In cases of general courts-martial so holden, where the number of nine officers cannot, in the judgment of the officer convening the same, be conveniently assembled, any number of native commissioned officers, subadars, or jemadars, not less than five, shall be competent to form such general courts martial for the trial of native officers or soldiers belonging to such detachments. But no sentence of death shall be passed by such courts-martial, unless two-thirds of the members, or four where the court consists of five, shall concur therein.—Reg. II., 1809, sec. iii.

These sections have not been repealed, but they seem to be superseded by Arts 73 & 74, Act xix, 1847

3. Any zillah or city magistrate shall be competent to give effect to the sentence of a general court-martial adjudging imprisonment with hard labour among the convicts of the civil power, on the offender being delivered into his custody, and the sentence being certified to him for the purpose of his giving it effect, by the judge-advocate-general, or his deputy, under the authority of the Commander-in-Chief, and the sentence so certified shall serve as the magistrate's warrant and authority for carrying it into effect according to the terms of it —Reg. IV., 1820, sec. ii.

This section is not repealed, but it seems to be superseded by Art. 84, Act xix, 1847

4 In all cases in which, by a general order of the Governor-General of India in Council, dated the 24th of February, in the year of our Lord 1835, it is made competent for courts-martial to sentence soldiers of the native army in the service of the East-India Company to the punishment of dismissal from such service, it is and shall be lawful to sentence such soldiers to be imprisoned with or without hard labour for any period not exceeding two years, if the sentence be pronounced by a general court-martial, or not exceeding one year if the sentence be pronounced by a garrison or line court-martial, or not exceeding six months if the sentence be pronounced by a regimental or detachment court-martial And every soldier so sentenced to imprisonment with hard labour for any period whatever, or to imprisonment without hard labour for any period exceeding six months, shall, after confirmation of his sentence, be dismissed from such service, provided always, that all sentences under this Act pronounced by any court-martial inferior to a general court-martial shall require the confirmation of the general or other officer commanding the division or field force to which the person convicted belongs —Act XXIII, 1839

5 Whenever, under Act No XXIII, of 1839, any sentence of a court-martial shall adjudge imprisonment, or imprisonment with labour, for any offence, it shall be the duty of every judge, magistrate, sheriff, or other officer in charge of any gaol, to give effect to such sentence on the offender being delivered into his custody, and on being furnished with a copy of the sentence by the officer commanding the division, garrison, regiment, or detachment, as the case may be, to which the offender belongs —Act II, 1840, sec. i.

6 In cases in which an offender, being a soldier, is punishable under Act No. XXIII, of 1839, any offender amenable to any Articles of War for the East-India Company's native forces, not being a commissioned officer and likewise any person serving with any part of the army and receiving public pay in any capacity, menial servants, and other camp followers of every

description, shall be punishable according to that Act, as well as otherwise, according to law; and Act No. II., of 1840, shall be applicable to offenders imprisoned under thisAct.—Act XXVIII., 1841, and Act XII., 1842, sec. ii.

These Acts have not been repealed, but they seem to be superseded by the Articles of War, Act xix., 1847.

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## ARTICLES OF WAR.

### Act XIX., 1847.

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*Of Inlisting and Discharges.*

7. Every recruit, prior to being enrolled in his regiment, shall have the first four Articles of the second section of these Articles of War read and explained to him, and when reported fit for duty in the ranks, such declaration as is now used, if any, in the respective presidencies, shall be made to him by the officer commanding, in front of the regiment or corps, in presence of the native officers and soldiers, and an oath or declaration shall then be required from him, according to the forms of his religion, such oath and declaration to be the like as are now used in the respective presidencies.—Sec. i., Art. 1.

8. No commissioned officer shall be dismissed except by the sentence of a general court-martial. No non-commissioned officer or soldier shall be discharged as a punishment except by the sentence of a court-martial, or by order of the Commander-in-Chief at the presidency to which he may belong. Every such dismissal or discharge shall include forfeiture of all claim to pension. Provided also, that the Governor-General in Council in his executive capacity, and the Governor in Council of any presidency to which a commissioned or non-commissioned officer or soldier may belong shall have power to order his dismissal or discharge.—Sec. i., Art. 2.

9. All non-commissioned officers and soldiers discharged the service, shall be furnished by the commanding officer of the regiment with a discharge certificate, made out in the vernacular language of the individual discharged, with an English translation, expressing the authority for and cause of such discharge, and the period of his entire service in the army.—Sec. i., Art. 3.

10. No non-commissioned officer or soldier shall enlist himself in any other regiment without a regular discharge from his former regiment, under the penalty of being reputed a deserter, and suffering accordingly.—Sec. i., Art. 4.

*Crimes and Punishment.*

*Crimes punishable with Death, Transportation, Corporal Punishment, Imprisonment, or Dismissal.*

11. Any officer or soldier who shall begin, excite, cause, or join in any mutiny or sedition in the regiment or corps to which he belongs, or in any other corps or regiment whatsoever, on any pretence whatever; or who, being present at any mutiny or sedition, shall not use his utmost endeavours to suppress it; or who, coming to the knowledge of any mutiny, intended mutiny, or concealed combination against the state, shall not without delay give information thereof to his commanding officer;— or Sec. ii., Art. 5.

12. Who shall strike his superior officer, or shall draw or offer to draw, or lift up any weapon, or use or offer any violence against him, whether on or off duty, and under all circumstances in which his superior officer may be distinguishable as such in any manner;— or Sec. ii., Art. 6.

13. Who shall disobey any lawful command of his superior officer;— or Sec. ii., Art. 7.

14. Who shall desert from the East-India Company's service (whether or not he shall re-enter or re-enlist in the same);— or Sec. ii., Art. 8.

15. Who, being a sentry in time of war or alarm, shall sleep upon his post; or shall leave it before regularly relieved, or without leave; or shall plunder or injure the property placed under his charge;— or Sec. ii., Art. 9.

16. Who shall shamefully abandon or deliver up any garrison, fortress, post, or guard, committed to his charge, or which it was his duty to defend; or who shall use means to induce any other officer or soldier so to abandon or deliver up any such garrison, fortress, post, or guard;— or Sec. ii., Art. 10.

17. Who shall treacherously make known the watchword to any person not entitled to receive it, according to the rules and discipline of war;— or Sec. ii., Art. 11.

18. Who shall hold correspondence with or give intelligence to the enemy, or any person in arms against the state, either directly or indirectly; or who, coming to the knowledge of such correspondence or communication, shall not discover it immediately to the commanding officer;— or Sec. ii., Art. 12.

19. Who shall directly or indirectly assist or relieve the enemy, or persons in arms against the state, with money, victuals, or ammunition; or shall knowingly harbour or protect any enemy or person in arms against the state;— or Sec. ii., Art. 13.

20. Who shall treacherously release, wilfully aid, or connive at the escape of any enemy or person in arms against the state, placed as a prisoner under his charge;— or Sec. ii., Art. 14.

21. Who shall misbehave himself before the enemy, or persons in arms against whom he is led, or use means to induce others so to misbehave;— or Sec. ii., Art. 15.

22. Who shall in presence of an enemy, or of persons in arms against whom he is led, shamefully cast away his arms or ammunition;— or Sec. ii., Art. 16.

23. Who shall leave his commanding officer, or his post, or colours, or party, in time of action, to go in search of plunder;— or Sec. ii., Art. 17.

24. Who, in time of war, shall do violence to any person bringing provisions or other necessaries to the camp or quarters of the forces; or shall force a safeguard; or break into any house, or other place for plunder; or plunder fields, or gardens, or other property;— or Sec. ii., Art. 18.

25. Who, in time of war, shall, by discharging firearms, drawing swords, beating drums, making signals, using words, or by any means whatever, intentionally occasion false alarms, in action, camp, garrison, or quarters;— or Sec. ii., Art. 19.

26. Who shall, without proper authority, release any state prisoner, or through carelessness or neglect shall suffer any such prisoner to escape; or shall connive at the plunder or injury of property in time of war, or the plunder or injury of treasure, or of a magazine, or dockyard, by the sentry or guard in whose charge such property, or treasure, or magazine, or dockyard, is placed; — or Sec. ii. Art. 20.

27. Who, being a sentry placed over any state prisoner, or over treasure, or over a magazine or dockyard, shall quit his post without being regularly relieved, or without leave; or shall sleep upon his post; or shall plunder or injure the property placed under his charge;

Shall, if an officer, on conviction, suffer death, or transportation for life, or be dismissed the service;

And, if a soldier, shall, on conviction, suffer death or transportation for life; or imprisonment with or without hard labour for life, or for any term of years; and with or without solitary confinement for any portion or portions of the terms of imprisonment, not exceeding twenty-eight days at a time, nor eighty-four days in any one year, with intervals between the period of solitary confinement of not less duration than such periods of solitary confinement; or shall suffer corporal punishment; or dismissal from the service, as by a general court-martial shall be awarded. Provided that no soldier shall be kept in solitary confinement more than eighty-four days in any one year, whether by the sentence of one or more courts-martial, or by the order of his commanding officer.—Sec. ii., Art. 21.

*Crimes punishable by General Court-Martial with Dismissal or Suspension of Officers, or by General or District Court-Martial with Dismissal, Reduction, Corporal Punishment, or simple Imprisonment, with or without Solitary Confinement, or Loss of Standing on the Roll of Non-commissioned Officers and Soldiers.*

28. Any officer or soldier who shall in operations in the field, spread reports by words or letters calculated to create unnecessary alarm in the troops, or in the vicinity, or in rear of the army;— or Sec. ii., Art. 22.

29. Who shall in action or previously to going into action, use words tending to create alarm or despondency;— or Sec. ii., Art. 23.

30. Who shall be drunk when on or for duty, or on parade, or on the line of march;— or Sec. ii., Art. 24.

31. Who shall strike or force any sentry;— or Sec. ii., Art. 25.

32. Any soldier who shall be grossly insubordinate or insolent to his superior officer in the execution of his office; or grossly insubordinate and violent in the presence of a court-martial;— or Sec. ii., Art. 26.

33. Who, being on actual service, shall refuse to assist in making field works;

Shall, if an officer, on conviction, be sentenced to be dismissed the service, or to be suspended from rank and pay and allowances;

And, if a soldier, shall, on conviction, before a general, or district, or garrison, court-martial, be sentenced to suffer such punishment as a general, or district, or garrison, court-martial is by these Articles of War respectively empowered to award.

Provided that such offender shall not be sentenced to death, or transportation, or imprisonment with hard labour.—Sec. ii., Art. 27.

*Crimes punishable by General Court-Martial with Dismissal or Suspension of Officers, or by General or District Court-Martial with Dismissal, Reduction, Imprisonment with or without Hard Labour, and with or without Solitary Confinement, or Loss of Standing on the Roll of Non-commissioned Officers and Soldiers.*

34. Any officer who shall behave in a manner unbecoming the character of an officer (the fact or facts whereon the charge is grounded being clearly specified therein);— or

Sec. ii., Art. 28.

35. Any officer or soldier who shall advise or persuade any other officer or soldier to desert, or who shall connive at such desertion; or who shall knowingly receive and entertain any deserter, and shall not immediately on discovery give notice to his superior officer; or shall not cause such deserter to be apprehended by the civil power;— or Sec. ii., Art. 29.

36. Who shall obtain or attempt to obtain for himself, or for any officer or soldier, or for any other person whatsoever, any pension or allowance by any false statement, certificate, or document, or by the omission of the true statement, or certificate, or document;— or

Sec. ii., Art. 30.

37. Who shall knowingly make a false return or report to any his superior officer authorized to call for a return or report of the state of the men under his command, or of arms, ammunition, clothing, or other stores thereunto belonging, or of which he may be in charge;— or

Sec. ii., Art. 31.

38. Who, at any post, or on the march, shall illegally and against the will of the parties extort money or property of any description, as fees or duties, or on any pretence whatever; or shall, without authority, exact from villagers or others, carriage, porterage, or provisions;—or

Sec. ii., Art. 32.

39. Who shall wantonly and intentionally defile any place dedicated to religious worship, or who shall wantonly and intentionally insult the religious prejudices of other persons;

Shall, if an officer, on conviction, be sentenced to be dismissed the service, or to be suspended from rank and pay and allowances;

And, if a soldier, shall, on conviction before a general, district, or garrison court-martial, be sentenced to suffer such punishment as a general, or district, or garrison court-martial is by these Articles of War respectively empowered to award.

Provided that such offender shall not be sentenced to death, or transportation, or corporal punishment.—Sec. ii., Art. 33.

*Crimes punishable by General Court-martial with Dismissal or Suspension of Officers, or by any Court-martial with Dismissal, Reduction, Imprisonment with or without Hard Labour, and with or without Solitary Confinement, or Loss of Standing on the Roll of Non-commissioned Officers and Soldiers.*

40. Any officer or soldier, who, being under arrest or in confinement, shall leave his arrest or confinement before he is set at liberty by competent authority; — or

Sec. ii., Art. 34.

41. Who shall malinger, feign, or intentionally produce disease or infirmity; or intentionally delay his cure; or intentionally aggravate his disease or infirmity; — or

Sec. ii., Art. 35.

42. Who shall, without orders, commit any waste, or spoil or plunder, or shall injure or destroy any property; — or Sec. ii., Art. 36.

43. Any soldier who shall, contrary to orders, when off duty, appear in or about camp or cantonments, or on any occasion of visiting towns or bazaars, carrying a sword, bludgeon, or other weapon; — or Sec. ii., Art. 37.

44. Who shall sell, pawn, or designedly or through neglect lose, or injure his horse, arms, clothes, accoutrements or regimental necessaries; or any of the above articles entrusted or belonging to any other soldier;

Shall, on conviction before a general, district, or garrison, or regimental court-martial, be sentenced to suffer such punishment as such courts-martial respectively are by these Articles of War empowered to award.

Provided that such offender shall not be sentenced to death, or transportation, or corporal punishment.—Sec. ii., Art. 38.

*Embezzlement; punishable by General Court-martial with Dismissal, Fine, and Imprisonment, with or without Hard Labour, and with or without Solitary Confinement, of Officers and Soldiers.*

45. Any officer, or soldier, who shall embezzle or fraudently misapply any money entrusted to him on the public account, or for any military purpose; or any provisions, forage, arms, clothing, ammunition, or military stores, of whatever kind or description, the property of Government, entrusted to his charge; or who shall wilfully spoil such property, or suffer it to be spoiled, or shall be concerned in or connive at any such embezzlement or fraudulent misapplication;

Shall, on conviction before a general court-martial, be dismissed the service, and fined to the extent of his arrears of pay and allowances; and be further liable to suffer imprisonment with or without hard labour for a term which may extend to three years, and with or without solitary confinement (to be regulated as aforesaid).—Sec. ii., Art. 39.

*Disgraceful Conduct; punishable by General or District Court-martial, with Corporal Punishment, or Imprisonment, with or without Hard Labour and Solitary Confinement, and in addition with Forfeiture of additional Pay and of Pension or Discharge, and Stoppages, of Non-Commissioned Officers and Soldiers.*

46. Any soldier who shall be guilty of disgraceful conduct;

In wilfully maiming or injuring himself, or any other soldier at the instance of such soldier, with intent to render himself or such soldier unfit for the service, or with intent to take his own life;— or Sec. ii., Art. 40.

47. In purloining or selling Government stores; — or Sec. ii., Art. 41.

48. In stealing money or goods, the property of a soldier, or of a military officer, or of any military mess, or of any person or persons belonging to or serving with or attached to the army; — or Sec. ii., Art. 42.

49. In plundering or injuring property placed under his charge as sentry, or in charge of his guard, or in conniving at the plunder or injury of such property; — or Sec. ii., Art. 43.

50. In embezzling or fraudulently misapplying public money entrusted to him for any military purpose; — or Sec. ii., Art. 44.

51. In committing any petty offence of a fraudulent or dishonest nature, to the injury of or with the intent to injure the Government, or any person, civil or military; — or Sec. ii., Art. 45.

52. Who shall be guilty of any other disgraceful conduct, being of a cruel, indecent, or unnatural kind;

Shall, on conviction before a general, or district, or garrison court-martial, be liable to suffer such punishments as any such courts are by these Articles of War respectively empowered to award for disgraceful conduct.

And every such offender shall, if not dismissed the service, further be put under stoppages, by sentence of the court, not exceeding half of his monthly pay and allowances, until the amount be made good of any loss or damage arising out of his misconduct.

And if such offender shall be dismissed the service, he shall further be sentenced to forfeit his arrears of pay and allowances due at the time of his discharge, or in such proportion as may be required to make good such loss or damage.—Sec. ii., Art. 46.

*Crimes punishable by General Court-martial with Suspension or Reprimand of Officers, or by any Court-martial with Dismissal, Reduction, or Simple Imprisonment, with or without Solitary Confinement, or Loss of Standing on the Roll, of Non-Commissioned Officers and Soldiers.*

53. Any officer, or non-commissioned officer who shall strike or otherwise ill-treat any soldier; — or Sec. ii., Art. 47.

54. Any sentry who, in time of peace, shall sleep upon his post, or shall leave it before regularly relieved or without leave; — or Sec. ii., Art. 48.

55. Any officer, or soldier, who shall knowingly enlist a deserter, or connive at his enlistment; — or Sec. ii., Art. 49.

56. Who, directly or indirectly, shall require or accept a bribe, present, or gratification, on the pretence of, or as a consideration for procuring leave of absence, promotion, or any other advantage or indulgence for any officer or soldier; — or Sec. ii., Art. 50.

57. Who, being in command at any post, or on the march, on complaint made to him of any

person under his command beating or otherwise ill-treating any person, or extorting from him more than he is obliged to furnish by authority, or disturbing fairs or markets, or committing any kind of riot, shall not see reparation done to the party or parties injured, or if that be impracticable, shall not report the same to his superior officer; — or Sec. ii., Art. 51.

58. Who, being in command of a guard, shall refuse to receive any prisoner duly committed to his charge, or shall without proper authority release any prisoner, or shall suffer, through carelessness or neglect, any prisoner to escape; — or Sec. ii. Act. 52.

59. Who shall quit his guard, or picquet, in time of peace, without being regularly relieved, or without leave; — or Sec. ii., Art. 53.

60. Who shall impede the provost marshal, or his assistants, or any other officer or person legally exercising authority, or refuse to assist him when requiring his aid in the execution of his duty; — or Sec. ii., Art. 54.

61. Who, being on leave of absence, shall have received information from the head quarters of his regiment, or from other competent authority, that his regiment has been ordered on service, and shall not rejoin without delay; — or Sec. ii., Art. 55.

62. Who, in time of peace, shall, by discharging fire-arms, drawing swords, beating drums, or by any other means whatever, intentionally occasion false alarms in camp, garrison, or cantonments; — or Sec. ii., Art. 56.

63. Who shall fail to repair at the time fixed to the parade, or place appointed, for exercise or duty, if not prevented by sickness or some other sufficient cause; — or Sec. ii., Art. 57.

64. Who shall, without urgent necessity, or without leave of his superior officer, quit his company or troop, or the parade; — or Sec. ii., Art. 58.

65. Who shall absent himself without leave, or shall, without sufficient cause, overstay the period for which leave may have been granted him; — or Sec. ii., Art. 59.

66. Any soldier who shall be found two miles from the camp contrary to orders; — or Sec. ii., Art. 60.

67. Who shall, contrary to orders, be absent from his cantonment after tatoo, or from camp after retreat beating; — or Sec. ii. Art. 61.

68. Who shall sell, lose, or designedly or through neglect, waste the ammunition delivered out to him;

Shall, if an officer, on conviction, be sentenced to suspension from rank and pay and allowances, or to be reprimanded in such manner as the Commander-in-Chief may direct;

And, if a soldier, shall, on conviction before a general, or district, or garrison, or regimental court-martial, be sentenced to suffer such punishment as any such courts-martial are by these Articles of War respectively empowered to award;

Provided that such offender shall not be liable to be sentenced to suffer corporal punishment or imprisonment with hard labour.—Sec. ii., Art. 62.

69. All crimes not capital, and all disorders or neglects which officers or soldiers may be guilty of, to the prejudice of good order and military discipline, though not specified in these Articles, are to be taken cognizance of by courts-martial, and to be punished according to the nature and degree of the offence, by the sentence of a general, or district, or garrison, or regimental court-martial; provided that a soldier shall not for any such offences be liable to be sentenced to suffer corporal punishment, or imprisonment with hard labour.—Sec. ii., Art. 63.

*Crimes incident to Courts-martial; punishable by General Court-martial with Dismissal or Suspension of Officers, and by any Court-martial with Dismissal or Reduction of Non-commissioned Officers, and with Dismissal or Simple Imprisonment of Soldiers.*

70. Any person amenable to these Articles of War, who, when duly summoned before a court-martial, shall not attend, or shall refuse to be sworn, or to make affirmation, or to answer any lawful question, or who shall induce any other person so to offend;

Shall be punished according to the sentence of the same or another court-martial, with dismissal or suspension from rank and pay and allowances, if a commissioned officer; with dismissal, or reduction to the ranks, if a non-commissioned officer; or with dismissal, or imprisonment, if a soldier;

Provided that such person, being a commissioned officer, shall not be liable to be punished by any but a general court-martial, and that no offender punished under the provision of this Article of War shall be sentenced to suffer imprisonment with hard labour, or corporal punishment.—Sec. ii., Art. 64.

71. Any person not amenable to these Articles of War, who, having been summoned before any court-martial, shall refuse or neglect to attend, or who, attending, shall refuse to be sworn, or to

make affirmation, or to answer any lawful question, or shall give such testimony as, if given in a Criminal Court, would render him guilty of perjury, or who shall induce any other person so to offend;

Shall be delivered to a magistrate to be proceeded against according to law.—Sec. ii., Art. 65.

72. Any person using menacing or disrespectful words, signs, or gestures, in the presence of a court-martial then sitting, or causing any disorder or riot so as to disturb their proceedings;

Shall be punished according to the condition of the offender and the nature and degree of his offence, by the sentence of the same or another court-martial, if he be amenable to these Articles of War; provided that such offender shall not be liable to be sentenced to corporal punishment or to imprisonment with hard labour, and if not amenable to these Articles of War, the offender shall be delivered over to a magistrate to be proceeded against according to law.—Sec. ii., Art. 66.

*Perjury; punishable by General or District Court-martial with Dismissal, and in addition with Fine, or simple Imprisonment, of Officers and Soldiers.*

73. Any officer, or soldier, who shall be found guilty of wilfully and knowingly giving false evidence on oath or affirmation on any trial before any general, or other court-martial, or any military court entitled to administer an oath, or of inducing any other person so to offend;

Shall be dismissed the service, and shall be further subject to fine to the amount of his arrears of pay and allowances, or to imprisonment which may extend to three years, according to the sentence of a general, or district, or garrison court-martial.—Sec. ii., Art. 67.

*Crimes admitting of less serious Notice.*

74. Whereas it may be advisable that some of the offences which by the foregoing Articles are directed to be tried by a general, or district, or garrison court-martial, should, in certain cases which admit of less serious notice, be tried by district, or garrison, or regimental courts-martial—in such cases the officer commanding the regiment or corps to which the offender belongs may, if he thinks it expedient and for the good of the service, order the offender to be tried by regimental court-martial, for any offence ordinarily cognizable by district, or garrison court-martial, making, however, a report in every such case, for the information of the general officer commanding the division, of the reasons of his having so proceeded; or such commanding officer may lay a particular statement of the case before the general or other officer having authority to convene general, or district, or garrison courts-martial, under whose command such offender may be serving, with an application for permission to try the offender by district, or garrison, or regimental court-martial; and such general or other officer will exercise his discretion in complying or not with such application; but the permission of such general or other officer so to proceed, shall be entered upon the proceedings at the trial of such offender.

Provided that mutiny shall not be considered one of the offences admitting of such discretionary investigation.

And that in cases where offences designated "disgraceful conduct" in these Articles of War, and admitting of less serious notice, shall be tried by regimental courts-martial, the term "disgraceful conduct" shall be omitted in the charge, and the offender shall on conviction be liable to suffer such punishment as a regimental court-martial is by these Articles of War empowered to award.—Sec. ii., Art. 68.

*Offences on the Line of March or on Board Vessels.*

75. For offences committed on the line of march, or on board any ship or other vessel, the officer in command of the troops is hereby authorized to try any soldier by a regimental, or detachment court-martial, and to confirm and execute the sentence on the spot;

Provided that such sentence shall in no case exceed that which a regimental court-martial is competent to award, and that the proceedings held in all such cases shall be transmitted for the information of the Commander-in-Chief.—Sec. ii., Art. 69.

*Administration of Justice.*

76. Whenever any officer or soldier shall commit a crime deserving punishment by court-martial, he shall, by his commanding officer, be put under arrest, if an officer or non-commissioned officer, or if a soldier, be confined, until he shall be either tried by a court-martial, or shall be

lawfully discharged by a proper authority; and no officer or soldier who shall be put in such arrest or confinement shall continue in his confinement longer than may be actually unavoidable.

And such process of arrest or confinement, or an attempt to affect such process, shall in no case be omitted where it may be practicable; but where resistance may be made, or from other circumstances such process may be impracticable, the offender or offenders shall be liable to trial and punishment at any subsequent period, within the limitations provided in these Articles of War. —Sec. iii., Art. 70.

77. No person shall be liable to be tried or punished for any offence against these Articles, which shall appear to have been committed more than three years previous to the order directing the assembly of the court-martial whereby he is to be tried, unless the person accused, by reason of his absenting himself, or some other manifest impediment, shall not have been amenable to justice within that period, in which case such person shall be liable to be tried, at any time not exceeding two years after the impediment shall have ceased.—Sec. iii., Art. 71.

78. Any person amenable to these Articles of War, who may commit any offence against the same, may be tried and punished for such offence in any place within the British territories, or elsewhere, where he may have come after the commission of the offence, in the same manner as if the offence had been committed where such trial shall take place.—Sec. iii., Art. 72.

79. The Commander-in-Chief at the presidencies of Fort William, Fort Saint George, and Bombay respectively for the time being, may appoint general or other courts-martial, and confirm, and mitigate or commute, or remit the sentences of such courts; and may issue his warrant to any general or other officer having the command of a body of troops in the service of Her Majesty, or of the East-India Company, empowering such officer to appoint general, or district, or garrison courts-martial, as occasion may require, for the trial of offences committed by any of the officers, or soldiers, or followers in the service of the said Company, being natives of the East Indies, or of other places within the limits of the said Company's Charter, and to confirm and mitigate or commute, or remit the sentences of such courts-martial.—Sec. iii., Art. 73.

80. A general court-martial shall not consist of less than thirteen commissioned officers, unless it be held out of the East-India Company's territories, where such court-martial may consist of seven commissioned officers, if a greater number cannot be conveniently assembled: and no sentence of a general court-martial shall be put in execution until after a report shall have been made of the whole proceedings to the Commander-in-Chief, or to some other person duly authorized to confirm the same, and until his directions shall have been signified thereupon.—Sec. iii., Art. 74.

*Powers of a General Court-martial.*

81. A general court-martial may sentence any officer or soldier to death or transportation, for any crimes which are by these Articles of War expressly made liable to sentence of death or transportation, and for such crimes only.

And when a commissioned officer shall be convicted of any offence, of which the punishment is not defined in these Articles of War, or is left discretionary, a general court-martial may adjudge such officer to be dismissed the service;—or to be suspended from rank and pay and allowances, for a stated period;—or to be placed lower on the list of his rank, by an alteration of the date of his commission, thereby losing the corresponding benefit of length of service; and the court shall in every such sentence specify the extent or degree of suspension or reduction which they shall so adjudge;—or the court may sentence such officer to be reprimanded in such manner as the Commander-in-Chief may direct.

And a general court-martial may sentence any non-commissioned officer to be reduced to the ranks; or may sentence any non-commissioned officer or soldier to be dismissed the service, or to be placed lower in the list of the rank which he holds (which shall not involve any forfeiture of service or other advantage, except that of standing), or may sentence any soldier to suffer corporal punishment not exceeding fifty lashes;—or imprisonment with or without hard labour not exceeding two years;—and to be kept in solitary confinement for any portion or portions of such imprisonment not exceeding twenty-eight days at a time, nor eighty-four days in any one year, with intervals between the periods of solitary confinement of not less duration than such periods of solitary confinement. Provided that no soldier shall be kept in solitary confinement more than eighty-four days in any one year, whether by the sentence of one or more courts-martial, or by order of his commanding officer.

And a general court-martial may, in addition either to corporal punishment, or to imprisonment, as aforesaid, sentence a soldier to forfeiture of all advantage as to additional pay and to pension on discharge, which might have otherwise accrued from the length or nature of his former service; or to forfeiture of such advantage absolutely, whether it might have accrued from past service, or might accrue from future service, according to the nature of the case, for disgraceful conduct.

And a general court-martial may, in addition to the punishment of dismissal, sentence any officer or soldier to forfeit his arrears of pay and allowances due at the time of his discharge, or such proportion thereof as may be required, to make good any loss or damage arising out of his misconduct:—And, in addition to any punishment not involving dismissal from the service, may sentence any officer or soldier to be put under stoppages not exceeding two-thirds of his pay and allowances in the case of an officer, and not exceeding half of his pay and allowances in the case of a non-commissioned officer or soldier, until the amount of such loss or damage be made good. —Sec. iii., Art. 75.

*Confirmation and Commutation of Sentence by the Commander-in-Chief.*

82. In cases wherein a sentence of death shall have been awarded by a general court-martial, for any offence against discipline for which sentence of death is awardable under these Articles of War, the Commander-in-Chief may confirm such sentence and cause it to be carried into effect, or may, instead of causing such sentence to be carried into effect, order the offender, if an officer, to be transported for life, or to be imprisoned for any term of years, or to be dismissed; and, if a soldier, to be transported for life, or to be imprisoned with or without hard labour, either for life, or for a certain term of years, and with or without solitary confinement (to be regulated as aforesaid), as to the Commander-in-Chief may seem meet.

In cases of commissioned officers sentenced to transportation, the Commander-in-Chief may in lieu thereof order the offender to be imprisoned for any term of years, or to be dismissed. And in cases of commissioned officers sentenced to be dismissed from the service, the Commander-in-Chief may, in lieu of such punishment, direct, that the offender be suspended from rank and pay and allowances for a certain period, to be distinctly specified by the Commander-in-Chief.

And the Commander-in-Chief may commute a sentence of transportation passed on a soldier, to imprisonment with or without hard labour, and with or without solitary confinement (to be regulated as aforesaid); and such imprisonment may be either for the same period for which transportation shall have been awarded, or for any lesser period.

And the Commander-in-Chief may commute a sentence of corporal punishment to dismissal from the service; or, in the case of a non-commissioned officer, may mitigate such sentence to reduction to the ranks; or, in the case of a non-commissioned officer or soldier, may commute such sentence to imprisonment without hard labour, and with or without solitary confinement (to be regulated as aforesaid), for any period not exceeding two years.

In cases of non-commissioned officers sentenced to be dismissed from the service, the Commander-in-Chief may, in lieu of such punishment, direct that the offender be reduced to the ranks, or placed lower in the list of the rank which he holds (which shall not involve any forfeiture of service or other advantage, except that of standing).

And in cases of offenders sentenced to imprisonment with hard labour, the Commander-in-Chief may mitigate such sentence by causing the offender to be reduced to the ranks, in the case of a non-commissioned officer; or, in the case of a non-commissioned officer or soldier, by directing that he be dismissed from the service, or suffer imprisonment without hard labour, and with or without solitary confinement (to be regulated as aforesaid), for any period not exceeding that for which he shall have been sentenced to such imprisonment with hard labour.—Sec. iii., Art. 76.

83. A district, or garrison court-martial shall consist of not less than seven commissioned officers, except in situations where that number cannot be conveniently assembled, when such court may consist of not less than five commissioned officers. And such district, or garrison court-martial may be composed of officers of the same regiment, and shall be assembled in conformity with the orders of the Commander-in-Chief.

And the sentence of a district, or garrison court-martial shall be confirmed by the Commander-in-Chief, or by some officer duly authorized to confirm the same.

*Commutation of Sentence.*

84. And the Commander-in-Chief is empowered to remit, or mitigate, or commute the sentences of such courts-martial, in the same manner as the sentences of general courts-martial, and to delegate to or withhold from commanding officers the power of convening such courts-martial, and of confirming, remitting, mitigating, or commuting the sentences of such courts (not including forfeiture of pay or pension or other advantage), as the Commander-in-Chief may deem to be most expedient.

And in case of any sentence, including forfeiture of additional pay or of pension on discharge, or of any prospective advantage, such sentence shall not be carried into effect until confirmed by

the Commander-in-Chief; and all forfeitures of any present or prospective advantage shall be restorable by the same authority.—Sec. iii., Art. 77.

*Powers of a District or Garrison Court-martial.*

85. A district or garrison court-martial may sentence any non-commissioned officer to be reduced to the ranks, or may sentence any non-commissioned officer or soldier to be dismissed from the service; or to be placed lower in the list of the rank which he holds (which shall not involve any forfeiture of service or other advantage, except that of standing); or may sentence any soldier to suffer corporal punishment not exceeding fifty lashes, or imprisonment with or without hard labour not exceeding one year, and to be kept in solitary confinement (to be regulated as aforesaid).

And such court-martial may, in addition either to corporal punishment or to imprisonment as aforesaid, sentence a soldier to forfeiture of all advantage as to additional pay, and to pension on discharge, which might have otherwise accrued from the length or nature of his former service, or to forfeiture of such advantage absolutely, whether it might have accrued from past service, or might accrue from future service, according to the nature of the case, for disgraceful conduct.

And such court-martial may, in addition to the punishment of dismissal, sentence any non-commissioned officer or soldier to forfeit his arrears of pay and allowances due at the time of his discharge, or such proportion thereof as may be required to make good any loss or damage arising out of his misconduct; and in addition to any punishment not involving dismissal from the service, may sentence any non-commissioned officer or soldier to be put under stoppages not exceeding half of his pay and allowances, until the amount of such loss or damage be made good.—Sec. iii., Art. 78.

86. A regimental court-martial shall consist of not less than five commissioned officers (unless it be found impracticable to assemble that number, when three may be sufficient), and shall be assembled by order of the officer commanding the regiment. And no sentence of a regimental court-martial shall be of force until the commanding officer shall have confirmed the same. Provided that such commanding officer shall have power to remit all sentences whatever passed by such court, and thereupon to cause the offender to be released and to return to his duty.—Sec. iii., Art. 79.

*Commutation of Sentence.*

87. And such commanding officer shall have power to confirm and carry into effect or to mitigate all sentences whatever passed by such court, and to commute a sentence of corporal punishment to imprisonment without hard labour, and with or without solitary confinement (to be regulated as aforesaid), for any period for which such court is competent to sentence an offender to suffer imprisonment, and in the same manner; and to mitigate a sentence of dismissal in the case of a non-commissioned officer, to reduction to the ranks, and to commute a sentence of imprisonment with hard labour, to dismissal; or to mitigate such sentence to reduction to the ranks, or to imprisonment without hard labour.—Sec. iii., Art. 79.

*Powers of a Regimental Court-martial.*

88. A regimental court-martial may sentence any non-commissioned officer to be reduced to the ranks; or may sentence any non-commissioned officer or soldier to be dismissed from the service; or to be placed lower in the list of the rank which he holds (which shall not involve any forfeiture of service or other advantage, except that of standing), or may sentence any soldier to suffer corporal punishment not exceeding fifty lashes; or imprisonment, with or without hard labour, for any period not exceeding six calendar months, and to be kept in solitary confinement (to be regulated as aforesaid).

Any such court-martial may, in addition to the punishment of dismissal, sentence any non-commissioned officer or soldier to forfeit his arrears of pay and allowances due at the time of his discharge, or such proportion thereof as may be required to make good any loss or damage arising out of his misconduct; and in addition to any punishment not involving dismissal from the service, may sentence any non-commissioned officer or soldier to be put under stoppages not exceeding half of his pay and allowances, until the amount of such loss or damage be made good.—Sec. iii., Art. 80.

89. An officer commanding any detachment of his own regiment may assemble regimental detachment courts-martial; and an officer commanding a detachment, consisting of men of

different corps, may assemble detachment or line courts-martial; and all such courts shall be constituted in the same manner as regimental courts-martial under the provisions of these Articles of War, and shall have the like powers.

And the provisions of these Articles of War relating to courts-martial held in regiments, shall be taken to apply to courts-martial held in detachments in all practicable cases.

Provided that no officer on detached command of less than four troops or companies, or of detachments numerically equal to four troops or companies, and not being on the line of march or on board any ship or other vessel, shall carry into effect any punishment awarded by a court-martial held by his order, until the sentence shall have been confirmed by the officer commanding the regiment to which the offender belongs, or by the nearest superior officer holding a command of not less than a regiment (who is hereby authorized to confirm the same, in like manner as an officer commanding a regiment is empowered to do); except in detached situations beyond sea or out of the British territories, or when on service in the field, or in cases where an immediate example is necessary and reference cannot be made to such commanding or superior officer without detriment to the service, when the officer commanding such detachment may exercise the powers which are vested in an officer commanding a regiment.—Sec. iii., Art. 81.

90. At all courts-martial it shall be competent to the officer convening the court to instruct the court, that, should the prisoner be found guilty, and imprisonment form part of the sentence, no portion of the imprisonment should be solitary; or should corporal punishment be awardable to the offender, that it shall not be awarded in the particular case, and the court will govern itself accordingly; and such instruction shall be in writing, and shall be attached to the proceedings of the court.—Sec. iii., Art. 82.

### *Execution of Sentences of Courts-Martial.*

91. In every sentence of death awarded by a general court-martial, the court shall specify that the offender shall "suffer death by being hanged by the neck until he be dead," or "by being shot to death," as the court in their discretion shall deem expedient; and such sentence, if confirmed, shall be carried into effect accordingly.—Sec. iii., Art. 83.

92. Whenever the sentence of a general court-martial shall adjudge transportation, or sentence of death shall be commuted by competent authority to transportation, any of the sudder courts shall give effect to such sentence, or commuted sentence, on the same being certified to the court under the authority of the Commander-in-Chief.

And whenever any sentence of a court-martial shall adjudge imprisonment with hard labour or with solitary confinement, or both, or whenever the sentence of a court-martial shall be commuted to any such imprisonment, it shall be the duty of every judge, magistrate, sheriff, or other officer in charge of a gaol, to give effect to such sentence, on the offender being delivered into his custody, and on being furnished with a copy of the sentence by the officer commanding the station, or regiment, or detachment within which the trial is held.—Sec. iii., Art. 84.

93. Whenever any soldier shall be sentenced to imprisonment for life, or a sentence of death shall be commuted to imprisonment for life, it shall be lawful for the Commander-in-Chief to order such offender to be transported beyond sea for life, and such order shall thereupon be made, unless there should be special reasons inducing the Commander-in-Chief to think such prisoner not a proper subject for transportation.—Sec. iii., Art. 85.

94. Persons sentenced to imprisonment by courts-martial shall be imprisoned in any public prison, or in any other fit place which the Commander-in-Chief shall from time to time direct.—Sec. iii., Art. 86.

95. Every soldier sentenced to imprisonment with hard labour shall, previous to undergoing such punishment, be struck off the strength of his corps from the date of confirmation of such sentence; and no soldier who has undergone such punishment for any period shall be capable of being re-admitted in the ranks, or of receiving pension on discharge.—Sec. iii., Art. 87.

96. Offenders sentenced to dismissal for disgraceful conduct;

And offenders subject to corporal punishment, or to imprisonment with hard labour for disgraceful conduct, shall, on any such sentence being confirmed, be dismissed with ignominy.—Sec. iii., Art. 88.

97. In every case wherein a fine, or forfeiture of arrears of pay, or stoppages shall be adjudged by a court-martial, any pay or public money due to the offender, or that may become due to him, shall be available, with the sanction of the Commander-in-Chief, for the payment of the amount so adjudged.

And no soldier sentenced to pay a fine or to stoppages to make good any loss or damage arising out of his misconduct shall be continued under forfeiture or stoppages under any one such sentence for any period exceeding one year, and no soldier shall be at any one time placed under

forfeiture or stoppages exceeding in the whole the amount of half of his pay and allowances, nor be liable to be put under stoppages prospectively while actually under stoppages to the amount of half of his pay and allowances.—Sec. iii., Art. 89.

*Forms of Proceeding.*

98. Trials by courts-martial may be carried on between the hours of six in the morning and four in the afternoon, and not otherwise, except in cases which may require an immediate example.—Sec. iii., Art. 90.

99. At general courts-martial a judge advocate, or an European officer of not less than ten years' service, shall be appointed to conduct the proceedings.

At all courts-martial inferior to general, an European officer of not less than four years' standing in the service, except in cases where no officer of that standing may be available, or the adjutant of the regiment, shall be appointed to conduct the proceedings.—Sec. iii., Art. 91.

100. An interpreter shall be appointed to all courts-martial, and any interpreter or other competent person available at the station where the court-martial may sit shall be appointed as occasion may require by the officer commanding at such station, on application from the judge advocate or superintending officer at such court-martial. But in situations where the services of an interpreter or other competent person are not available, the superintending officer at the court-martial shall perform the duty of interpreter.—Sec. iii., Art. 92.

101. At all courts-martial the senior officer shall sit as president without being so appointed by warrant. Provided that all subadar majors are to take precedence according to the dates of their commissions, and above all native officers holding the rank of subadar or jemedar, and that sirdar bahadoors and bahadoors shall rank only according to their respective commissions of subadar major, subadar, or jemadar.—Rissaldars and rissaidars will take rank with subadars, and naib rissaldars with jemadars, according to the dates of their respective commissions.

In case of the death or unavoidable absence of the president, the next senior member shall take the place of president, and the trial shall proceed, provided that the court shall still consist of at least the number of members of which such court is directed to consist by these Articles of War.—Sec. iii., Art. 93.

102. No finding or sentence of a court-martial shall be revised more than once, and no evidence shall be received on such revision. For the purpose of such revision the president and all the members shall be convened if possible. But if any of them should be unavoidably absent, the remaining members may proceed with such revision, provided they are not fewer than the smallest number directed in these Articles respectively. When all the same members do not meet, the circumstances are to be duly certified on the face of the proceedings.—Sec. iii., Art. 94.

*Manner of Voting.*

103. All the members of a court-martial are to preserve order, and in giving their votes upon all matters are to begin with the youngest; and in all cases where a sentence of death may not be awarded, the decision shall be by the majority of members present, provided the number of members present be not less than that required by the preceding articles; but in case of an equality of votes, the decision shall be in favour of the prisoner; the president at a court-martial shall vote with the other members, but shall have no casting vote. Provided that in cases of an equality of votes upon other questions than the finding and the sentence, the president shall have a casting vote.—Sec. iii., Art. 95.

104. No sentence of death shall be given against any offender by a court-martial, unless two-thirds of the members present concur therein, or four where the court consist of five members, or five where the court consist of seven.—Sec. iii., Art. 96.

*Affirmations.*

105. On the assembly of a court-martial, the judge advocate or superintending European officer shall administer to the interpreter the following solemn affirmation:

"I, A. B., solemnly affirm in the presence of Almighty God, that I will faithfully interpret and translate the proceedings of the court, and that I will not divulge the sentence until it shall have been published by authority, and further that I will not disclose or discover the vote or opinion of any particular member of the court unless required to give evidence thereof by a court of justice or court-martial, in due course of law."

In case of the unavoidable absence of an interpreter, the European superintending officer of a court-martial inferior to general shall make the solemn affirmation prescribed for the interpreter.

The judge advocate or superintending officer shall then cause the following solemn affirmation to be made by each member:—

"I, A. B., solemnly affirm in the presence of Almighty God, that I will duly administer justice according to the Articles of War, without partiality, favour, or affection; and if any doubt shall arise, then, according to my conscience, the best of my understanding, and the custom of war in the like cases; and that I will not divulge the sentence of the court until it shall be published by authority; and further, that I will not disclose or discover the vote or opinion of any particular member of the court, unless required to give evidence thereof by a court of justice or a court-martial in due course of law."

The following solemn affirmation shall then be administered by the interpreter to the judge advocate or superintending officer:—

"I, A. B., solemnly affirm in the presence of Almighty God, that I will not upon any account whatsoever disclose or discover the vote or opinion of any particular member of the court-martial, unless required to give evidence thereof as a witness by a court of justice or a court-martial in due course of law, and that I will not, unless it be necessary for the due discharge of my official duties, disclose the sentence of the court, until it shall be published by authority."

Provided, that it shall be necessary to re-administer these solemn affirmations on the commencement of fresh trials before the same court.—Sec. iii., Art. 97.

106. All persons who give evidence at a court-martial are to be examined on oath according to the forms of their respective religions or on affirmation; and persons of the Hindoo or Mahomedan persuasion, and other persons making affirmation, shall make affirmation to the following effect:—

"I solemnly affirm, in the presence of Almighty God, that what I shall state shall be the truth, the whole truth, and nothing but the truth."

And if any person making such affirmation as aforesaid, shall wilfully and falsely state any matter or thing which, if the same had been sworn, would have amounted to perjury, every such offender shall be subject to the same punishment to which persons convicted of perjury are subject.—Sec. iii., Art. 98.

*Summoning Witnesses not amenable to these Articles.*

107. In all cases where persons required as witnesses before a court-martial may not be amenable to military law, the judge advocate or commanding officer shall transmit to the magistrate within whose jurisdiction the witness may reside, his summons for the attendance of such person, and the magistrate shall cause the witness to be duly summoned.—Sec. iii., Art. 99.

*Powers and Duties of Provost Marshals.*

108. For the prompt and instant repression of all irregularities and crimes which may be committed by troops in the field and on the line of march, provost marshals shall be appointed by the Commander-in-Chief, and their powers shall be regulated according to the established usages of war and rules of the service; their duties are to take charge of prisoners confined for offences of a general description; to preserve good order and discipline; to prevent breaches of both by soldiers and followers of the army, and to punish on the spot, on the same day, those whom they may find in the immediate act of committing breaches of good order and military discipline; provided that the punishment be limited to the necessity of the case, and shall accord with the orders which the provost marshals may from time to time receive from the commander of the forces in the field; and that whatever may be the crime, the provost marshal or his assistant shall see the offender commit the act, for which summary punishment may be inflicted; or if the provost marshal or his assistant should not see the offender actually commit the crime, but that sufficient proof can be established of the offender's guilt, a report shall be made to the commander of the army in the field, who is hereby empowered to deal with the case as he may deem most conducive to the maintenance of good order and military discipline. The duties of provost marshals being limited to the punishment of offenders whom they may detect in the actual commission of any crime, the general commanding the forces in the field will cause them to exercise the powers entrusted to them in such manner and under such circumstances as he may consider best calculated to prevent and instantly to repress crimes injurious to the discipline of the East-India Company's army and the public service.—Sec. iii., Art. 100.

*Trials by European Courts-martial.*

109. At any presidency where the native troops have hitherto been authorized to claim to be tried by European courts-martial, every person amenable to these Articles of War, and who may be under orders for trial by a court-martial, shall have the right to claim to be tried by European officers; and should he make such claim, the court, whether general, district, or garrison, or

regimental, shall be composed of European commissioned officers, and the number of members and the proceedings shall be governed in all respects by the provisions of these articl e s.

And it shall be competent to the Governor-General of India in Council, by a general order, to authorize the native troops of any of the presidencies to claim to be tried in like manner by European courts-martial.—Sec. iii., Art. 101.

## SECTION IV.

### *Effects of the Dead.*

110. When any officer or soldier, or any person receiving public pay drawn by any officer in charge of a public department belonging to the army, may die, or be killed in the service, the commanding officer of the regiment or party, or officer in charge of the department, shall, if no heir or executor be present, secure his effects, and direct an inventory thereof to be taken, a duplicate of which is to be lodged in the office of the adjutant, or officer in charge of the department.—Sec. iv., Art. 102.

111. If there be no heir or executor on the spot, the effects are to be publicly sold; the commanding officer of the regiment or party, or officer in charge of the department, after discharging the debts of the deceased, viz. the expense of funeral ceremonies, his debts in camp or quarters, and regimental debts of every description, shall account for the residue to the heir or heirs declared by will, whether written or verbal, or nominated in the regimental register, or in failure of such, to the legal representative of the deceased; and in the event of no executor, heir, or other representative of the deceased attending and establishing his claim within twelve months from the date of the casualty, the amount in the hands of the officer having charge of the estate is to be remitted to the general treasury at the presidency.—Sec. iv., Art. 105.

## SECTION V.

### *Miscellaneous.*

112. The effects of deserters are to be publicly sold, and the proceeds after payment of regimental debts, remitted by the officer commanding the corps to which the deserter belongs, to the general treasury at the presidency, or appropriated according to the rules obtaining at such presidency.—Sec. v., Art. 104.

113. All powers and provisions contained in these Articles relating to the Commander-in-Chief shall be construed to extend to the Commander-in-Chief at any presidency, and to the officer commanding the forces for the time being at any presidency, unless when otherwise provided.

All powers and provisions contained in these Articles relating to soldiers shall be construed to extend to non-commissioned officers, unless when otherwise provided.—Sec. v., Art. 105.

114. When any portion of the troops belonging to one presidency shall be serving within the limits of another presidency, such troops shall be considered as placed, during such service under the orders and authority of the Commander-in-Chief, or commanding officer of the forces of the presidency within which they are serving, for all the purposes of these Articles of War, in the same manner as though they belonged to such presidency; and all the provisions of these Articles of War, which relate to the trial and punishment of offenders belonging to the presidency within which the trial is held, are hereby declared applicable to the trial and punishment of offenders amenable to these Articles of War serving within such presidency. Provided always, that it shall be lawful for the Governor-General in Council, in his executive capacity, to direct that the troops, or any part thereof, of any presidency, whilst serving without the limits of such presidency, shall continue under the orders and authority of the Commander-in-Chief, or commanding officer of the forces of the presidency to which they belong for all purposes of these Articles.—Sec. v., Art. 106.

115. Any officer commanding any portion of the East-India Company's troops which may at any time be serving in any place out of her Majesty's dominions, or of the possessions or territories which are or may be under the Government of the said Company, or of the territories of those states in alliance with the said Company in which the said Company's forces are permanently stationed, shall, upon complaint made to him of any offence committed against the property or person of any inhabitant or resident in any such countries, by any person serving with or belonging

to the Company's army, being under the immediate command of any such officer, summon and cause to assemble a general court-martial, which shall consist of not less than three officers, for the purpose of trying any such person, notwithstanding any such officer shall not have received any warrant empowering him to assemble courts-martial; and every such court-martial shall have the same powers in regard to summoning and examining witnesses, trial of, and sentence upon any such offenders, as are granted by these Articles to general courts-martial; provided that no sentence of any such court-martial shall be executed until the General Commanding in Chief the army to which the division, brigade, detachment, or party to which any person so tried, convicted, and adjudged to suffer punishment shall belong, shall have approved and confirmed the same; except where such sentence shall not exceed the powers granted by these Articles to a district or garrison court-martial, in which case the officer by whom the court is convened is hereby authorized to confirm, or commute, or mitigate, or remit the same, reporting the proceedings to the said General Commanding in Chief.—Sec. v., Art. 107.

116. General courts-martial only shall have the power to try commissioned officers, or to pass sentence of death or transportation on any offenders.—Sec. v., Art. 108.

117. No person, being acquitted or convicted before a court-martial of any offence, shall be liable to be tried a second time by the same or any other court-martial for the same offence. Provided always, that after a soldier shall have been found guilty by a court-martial of any military offence, such court-martial shall inquire into and receive evidence of any previous conviction of such soldier before a court-martial or a court of justice, and shall inquire into the general character of such soldier, for the purpose of affixing the punishment to which he is liable to be sentenced for the offence of which he has been so found guilty.

Provided that no such evidence shall in any case be received until the court shall have ascertained that such soldier had previously to his trial received notice of the intention to produce such evidence on the same. And it is hereby directed, that such notice shall be given to all soldiers previous to trial.—Sec. v., Art. 109.

118. No non-commissioned officer shall be reduced to the ranks but by the sentence of a court-martial, or by the order of the Commander-in-Chief of the presidency to which the offender shall belong. Provided that no non-commissioned officer shall be reduced to the ranks for any limited period; nor suspended from his rank; nor reduced from a higher to a lower grade of non-commissioned officer; nor sentenced to suffer corporal punishment or imprisonment, without being first reduced to the ranks.—Sec. v., Art. 110.

119. Any officer or soldier thinking himself wronged by his superior or other officer is to complain thereof to the commanding officer of his troop or company, by whom, if the grievance be not redressed, such officer, non-commissioned officer, or soldier, may complain to the commanding officer of his regiment, who is hereby required to examine into such complaint, or remit it to his superior authority as the circumstances may require; but if the complaint should appear to be frivolous or groundless, the party preferring it shall be liable to be punished according to the sentence of a general or other court-martial in manner hereinbefore mentioned; provided that such offender shall not be liable to be sentenced to dismissal, nor to suffer corporal punishment or imprisonment with hard labour.—Sec. v., Art. 111.

120. In case of light offences, a commanding officer may, without the intervention of a court-martial, award extra drill with or without pack, of a period not exceeding fifteen days; restriction to barrack limits not exceeding fifteen days; confinement in the quarter guard or defaulter's room, not exceeding seven days; removal from staff situations or acting appointments; or may order soldiers to be employed in piling and unpiling shot; and in cleaning accoutrements of men in hospital; but none of these descriptions of punishment shall be awardable by sentence of a court-martial. And a commanding officer may award solitary confinement not exceeding seven days.

Provided that soldiers in confinement shall be liable to be ordered to attend ordinary drill.—Sec. v., Art. 112.

121. Any officer or soldier, who shall be taken prisoner by the enemy, shall forfeit all claim to pay and allowances during the period of his remaining a prisoner, and until he shall again return to the service, when, if he can establish, before a court-martial, that he was unavoidably taken prisoner in the course of service, and resisted as long as he was able, and that he hath not served with or assisted the enemy, and that he hath returned as soon as possible to the service, he shall be entitled to receive either the whole, or such portion of his arrears of pay and allowances as the Government of the presidency to which he may belong shall determine, after the opinion or finding of such court-martial shall have been confirmed by the Commander-in-Chief.

No native officer, or soldier, or public follower in the military service of the East-India Company, shall be entitled to pay or allowances when imprisoned under the sentence of a court-martial or a commuted sentence, or under the sentence of a Court of Criminal Judicature, but shall be clothed and subsisted at such rates, or in such manner, as the Governor-General of India in Council may from time to time order.—Sec. v., Art. 113, and Act XXXVI., 1850, sec. ii.

*Mode of dealing with Offences not Military.*

122. In all places within the jurisdiction of any civil judicature, established by appointment of her Majesty or of the said Company, officers and soldiers accused of capital crimes, or of violence, or of offences against person and property, punishable by such civil judicature, shall be delivered over to a magistrate to be proceeded against according to law.

And all officers and soldiers are hereby required to assist the officers of justice in apprehending and securing any person so accused.—Sec. vi., Art. 114.

*Crimes to be tried by Courts-martial where no regular Criminal Tribunals exist.*

123. In any place within the limits of the charter of the East-India Company, whether in or out of the British territories, where there may be no civil judicature appointed by her Majesty or the said Company for the trial of persons accused of offences ordinarily cognizable by civil tribunals, such offences when committed by officers or soldiers shall be cognizable by courts-martial.—Sec. vi., Art. 115.

124. General courts-martial shall have cognizance, ordinarily, of offences punishable with death;

Transportation for life;

Imprisonment for life;

Imprisonment for a period which may extend to fourteen years;

Imprisonment for a period which may extend to seven years.—Sec. vi., Art. 116.

125. District, or garrison courts-martial shall have cognizance, ordinarily, of offences punishable with imprisonment for a period which may extend to three years, and, by special order, of offences ordinarily cognizable by general courts-martial not liable to the punishment of death or transportation, with power to sentence persons convicted of such offences to imprisonment for any period not exceeding three years.—Sec. vi., Art. 117.

126. Regimental, detachment, or line courts-martial, shall have cognizance, ordinarily, of offences punishable with imprisonment for a period not exceeding six calendar months, and, by special order, of offences ordinarily cognizable by district or garrison courts-martial, with power to sentence persons convicted of such offences to imprisonment for a period not exceeding six calendar months.—Sec. vi., Art. 118.

## GENERAL COURTS-MARTIAL.

*Punishment of Death.*

127. Any officer or soldier who shall be convicted by a general court-martial of the crime of "murder" shall be sentenced to suffer death by being hanged by the neck until he be dead.

If any injury intended against any one person shall, through mistake or accident, light upon another person, and kill him, such killing shall be deemed to be murder, whensoever it would have been murder had the person against whom such injury was intended been killed.

Whensoever death shall result from any injury wilfully caused by an offender, but without his intending such injury to light on any person in particular, such offender shall be guilty of murder, if the offence would have been murder had he intended to do the injury to the person killed.—Sec. vi., Art. 119.

*Offences punishable by Transportation for Life.*

128. Any officer or soldier who shall be convicted by a general court-martial of any of the offences hereinafter mentioned, accompanied with an attempt to commit murder, or with wounding or other corporal injury to any person endangering the life of such person, that is to say,—

1st. Breaking, or attempting to break, by day or night, into any dwelling-house, tent, boat, or other habitation, or into any building or place used for the preservation of property, with the intent to rob or steal;

2nd. Robbery or attempt to rob;

3rd. Stealing or attempting to steal in a house, or from the person;

Shall be sentenced by such general court-martial to imprisonment with or without hard labour and transportation for life.—Sec. vi., Art. 120.

*Offences punishable by Imprisonment which may extend to Fourteen Years.*

129. Any officer or soldier who shall be convicted by a general court-martial of any of the offences specified in the last Article, accompanied with wounding or other corporal injury to any person not endangering the life of such person;—or Sec. vi., Art. 121.

130. Of wounding, or administering poison with intent to murder, whether the person wounded or to whom poison is administered, be the person whom the offender intended to murder or another;—or Sec. vi., Art. 122.

131. Of robbery by open violence, or dacoity, that is to say, going forth in the day or in the night with an offensive weapon, or in a gang with or without an offensive weapon, with the intention of committing robbery, and by force or intimidation robbing or attempting to rob any person in any place, or attacking by open violence any house, or place of habitation, or any place in which property may be kept, for the purpose of robbery;—or Sec. vi., Art. 123.

132. Of breaking, or attempting to break, into any dwelling-house, tent, boat, or other place of habitation, between sunset and sunrise, with an intent to rob or steal;—or Sec. vi., Art. 124.

133. Of breaking into any such place of habitation, or into any place used for the preservation of property, and stealing therefrom property the value of which shall exceed one hundred Company's rupees;—or Sec. vi., Art. 125.

134. Of purchasing or receiving plundered or stolen property, knowing it to have been obtained by robbery by open violence, or by theft or robbery aggravated as described in Article 120 or Article 121;

Shall be sentenced by such general court-martial to imprisonment with or without hard labour for a period not exceeding fourteen years.—Sec. vi., Art. 126.

*Offences punishable by Imprisonment not exceeding Seven Years.*

135. Any officer or soldier who shall be convicted by a general court-martial of culpable homicide not amounting to wilful murder;—or Sec. vi., Art. 127.

136. Of premeditated affray, attended with homicide, or severe wounding, or other aggravating circumstance;—or Sec. vi., Art. 128.

137. Of intentionally wounding, maiming, or otherwise doing corporal injury to any person;—or Sec. vi., Art. 129.

138. Of accidentally wounding, maiming, or otherwise doing corporal injury to any person, with the intention of doing such injury to another person;—or Sec. vi., Art. 130.

139. Of breaking into any dwelling-house, tent, boat, or other place of habitation, or into any place used for the preservation of property, between sunrise and sunset, with intent to steal therein;—or Sec. vi., Art. 131.

140. Of stealing from any habitation, or from any person, any property exceeding three hundred Company's rupees in value;—or Sec. vi., Art. 132.

141. Of having purchased any property so stolen, exceeding in value three hundred Company's rupees, knowing it to have been stolen;—or Sec. vi., Art. 133.

142. Of arson;—or Sec. vi., Art. 134.

143. Of an unnatural crime;—or Sec. vi., Art. 135.

144. Of rape;—or Sec. vi., Art. 136.

145. Of enticing and taking away, or of causing to be enticed or taken away for any unlawful purpose, any unmarried woman under the age of fifteen years;—or Sec. vi., Art. 137.

146. Of stealing a child under the age of eight years;—or Sec. vi., Art. 138.

147. Of counterfeiting, or causing or procuring the fraudulent fabrication or alteration of any written deed, or printed paper, of any description; or any counterfeit seal or signature thereto; or the illicit imitation of any public stamp or stamped paper, established by Government; or of fraudulently issuing and publishing as true, or of fraudulently giving effect, or attempting to give effect to fabricated deeds and papers knowing them to be forgeries; or of using, selling, or disposing of such stamped paper, knowing the same to be counterfeit;—or Sec. vi., Art. 139.

148. Of forging, or procuring to be forged, any counterfeit coin, in imitation of any of the gold, silver, or copper coin of the British Government in India; or of any coin usually received as money in the British territories; or of clipping, filing, drilling, or defacing any such coin; or of paying or tendering in payment counterfeit coin, bank notes, or other securities for money, knowing the same to be counterfeit, although such notes or securities shall be incomplete;

Shall be sentenced by such general court-martial to suffer imprisonment, with or without hard labour, for any period not exceeding seven years.—Sec. vi., Art. 140.

## DISTRICT OR GARRISON COURTS-MARTIAL.

*Offences Punishable by Imprisonment not exceeding Three Years.*

149. It shall be competent to the Commander-in-Chief, and to any officer having authority, to convene district or garrison courts-martial, to cause offenders, not being commissioned officers, accused of any of the offences specified in the preceding Articles of War, for which the punishment of death, or imprisonment, or transportation for life is not provided therein, to be tried for such offences before a district or garrison court-martial, and such court shall have power, on conviction, to sentence any such offender to imprisonment, with or without hard labour, for any period not exceeding three years.—Sec. vi., Art. 141.

150. Any officer or soldier who shall be convicted by a general, district, or garrison court-martial, of stealing from any habitation, or from the person, any property, of value not exceeding three hundred Company's rupees but exceeding fifty Company's rupees; — or

Sec. vi., Art. 142.

151. Of having purchased or received any stolen property of value not exceeding three hundred Company's rupees, knowing it to have been stolen, but not under aggravating circumstances; — or Sec. vi., Art. 143.

152. Of having stolen property in his possession, and of having kept possession of such property after becoming aware of its having been stolen;

Shall be sentenced by such court to suffer imprisonment, with or without hard labour, for any period not exceeding three years.—Sec. vi., Art. 144.

## REGIMENTAL, DETACHMENT, OR LINE COURTS-MARTIAL.

*Offences Punishable by Imprisonment not exceeding Six Months.*

153. It shall be competent to any officer having authority to convene a court-martial, to cause offenders, not being commissioned officers, accused of any of the offences specified in the preceding Articles of War, for which no punishment exceeding imprisonment, with hard labour, for three years is therein provided, to be tried before regimental, or detachment, or line courts-martial, and any such court shall have power, on conviction, to sentence any such offender to suffer imprisonment, with or without hard labour, for any period not exceeding six calendar months.—Sec. vi., Art. 145.

*Offences Punishable by Imprisonment from Six Months to One Year, according to the Description of the Court.*

154. Any officer or soldier who shall be convicted of stealing property to the value of fifty Company's rupees, or of less value; — or Sec. vi., Art. 146.

155. Of assault or affray, unattended with homicide, severe wounding, or aggravating circumstances;

Shall be sentenced to suffer imprisonment, with or without hard labour, for any period not exceeding one year, by the award of a general, or district, or garrison court-martial; or, for any period not exceeding six calendar months, by the award of a regimental, or detachment, or line court-martial.—Sec. vi., Art. 147.

*Offences Punishable by Imprisonment from Six Months to Two Years, according to the Description of the Court.*

156. Any officer or soldier who shall be convicted of resisting the process of a magistrate or police-officer; — or Sec. vi., Art. 148.

157. Of having committed any offence against person or property, for which provision is not already made in the preceding Articles of War;

Shall be sentenced to suffer imprisonment for any period not exceeding two years, by the award of a general court-martial; not exceeding one year, by the award of a district or garrison court-martial; and not exceeding six calendar months, by the award of a regimental, or detachment, or line court-martial.—Sec. vi., Art. 149.

158. Any officer or soldier who shall be convicted by a general, or district, or garrison, or regimental court-martial, of having been present, aiding and abetting, or of having caused, instigated, or procured, the commission of any of the offences specified in any of the preceding Articles,

shall be sentenced by such court to the punishment therein provided for such offence, and awardable by general, or district, or garrison, or regimental courts-martial, respectively.—Sec. vi., Art. 150.

159. No sentence of death shall be carried into effect until confirmed by the Commander-in-Chief, nor, if the trial shall have been held within the British territories forming part of either of the presidencies of Fort William, Fort St. George, and Bombay, respectively, until such confirmation shall have been concurred in by the Government of the presidency where such trial shall have been held.—Sec. vi., Art. 151.

160. The Commander-in-Chief is authorized at his discretion to confirm any sentence of death, or to remit such sentence, or to commute it into imprisonment with hard labour and transportation for life, or into imprisonment with hard labour for any term of years.—Sec. vi., Art. 152.

161. No sentence of transportation shall be carried into effect until confirmed by the Commander-in-Chief, and the Commander-in-Chief is authorized at his discretion to confirm any such sentence, or to commute it into imprisonment, with or without hard labour, for any period of time. —Sec. vi., Art. 153.

162. It shall be competent to any officer having authority to confirm the sentence of a general or other court-martial, to remit any sentence passed by such court-martial, or to mitigate such sentence by substituting simple imprisonment for imprisonment with hard labour, or by reducing the period of imprisonment, or by directing the discharge of the offender in lieu of any imprisonment.—Sec. vi., Art. 154.

163. A person who may have been tried for any offence by a court-martial under the authority of these Articles of War, shall not be tried for the same in any other court whatsoever, and no person who shall have been acquitted or convicted of any offence by a court of civil judicature shall be punished by a court-martial for the same, otherwise than by cashiering or dismissal from the service.—Sec. vi., Art. 155.

164. The Regulations at present in force at any presidency, by which the office and powers of commissariat officers, or officers in charge of the police, or superintendents of bazars, are defined and controlled; or by which punchayets are constituted and guided; or by which jurisdiction is given to courts-martial over offences committed by persons amenable to the Articles of War, within certain limits beyond or around cantonments, are hereby declared to be in full force, and the same shall continue to be observed at the several presidencies respectively.—Sec. vi., Art. 156.

### *Application of the Articles.*

165. All officers and soldiers, all drivers, farriers, trumpeters, and drummers; all unattested recruits; all hospital attendants, sub-assistant surgeons, native doctors and dressers; all artificers and labourers, suttlers, followers, public and private, or others attached to or serving with any part of the army, are to be governed by these Articles and subject to trial by courts-martial.

Provided, that persons of European descent (whether on the side of their father or mother), professing the Christian religion, shall not be amenable to these Articles; but if belonging to the descriptions mentioned in this Article (and not being her Majesty's natural born subjects born in Europe, or the children of such subjects), shall be tried and punished in the same manner as persons are who are subject to the Mutiny Act and Articles of War in force for the better government of the European officers and soldiers in the service of the East-India Company.—Sec. vii., Art. 157.

### *Promulgation of the Articles.*

166. These Articles are to be translated into the several languages of the different presidencies, and the parts following, viz. the second section, together with the following Articles in other sections, viz. 2, 4, 75, 78, 80, 102, 103, 110, and 111, are to be read once every three months at the head of every regiment, troop or company mustered in the service, and to every recruit at the period of his attestation.—Sec. vii., Art. 158.

## FURTHER RULES RESPECTING MILITARY COURTS.

167. Whenever a witness in attendance before a general court-martial, or other military court duly authorized to administer an oath, shall refuse to be sworn, and the court shall be of opinion that the testimony of such witness is essential, and that there is no sufficient reason to exempt him from taking the oath, the judge-advocate-general, or other officer conducting the proceedings of the court, shall be authorized to forward such witness, with a written statement, to the zillah or city magistrate or joint magistrate, within whose jurisdiction the court may be held; and the magistrate or joint magistrate is hereby directed to make such inquiries into the case as may

satisfy him that the witness ought or ought not to be exempted from taking an oath, under the provisions of Regulation L., 1803. If the magistrate or joint magistrate shall be of opinion that no sufficient grounds exist for exempting the witness from taking the prescribed oath, he shall proceed in the same manner as if the refusal to give evidence on oath had taken place in his own court: on the other hand, if he shall be of opinion that the witness ought not to be compelled to take the oath, he shall certify the same to the judge-advocate-general or other officer above referred to, and shall not impose any penalty on such witness.—Reg. XX., 1825, sec. iv.

168. The Commander-in-Chief of the military forces in the service of the East-India Company in each presidency shall have power to pardon any person belonging to the said forces, convicted by sentence of a court-martial of any offence against the Articles of War framed for the government of the native officers and soldiers in the military service of the East-India Company, which, wherever committed, is not punishable otherwise than by sentence of a court-martial; or, instead of granting a full pardon to any such person, may remit any part of the punishment awarded for such offence.—Act VI., 1850, sec. i.

169. In such cases, the Commander-in-Chief shall issue a warrant under his hand, setting forth the offence, and a copy of the warrant or other instrument by which the offender is kept in custody in execution of the sentence, and pardoning or remitting such part of the punishment awarded for the offence as to him shall seem fit.—Act VI., 1850, sec. ii.

*Note.*—The crime of tampering with the army or navy is punishable by the criminal courts under Act XIV., 1849.—See Specific Offences.

170. The said warrant shall be countersigned by the magistrate of the zillah or city in which the offender is undergoing his sentence; or, if he is confined in any prison belonging to one of the Supreme Courts of Judicature established by royal charter, shall be countersigned by a judge of such court, if it shall appear to such magistrate or judge that the offence, wherever committed, is not punishable by any authority other than that of a court-martial, but not otherwise.—Act VI., 1850, sec. iii.

171. All sheriffs, gaolers, and other persons having custody of any offender under sentence of a court-martial, shall obey and give effect to any warrant of the Commander-in-Chief, countersigned by a magistrate or judge of the Supreme Court as aforesaid, for the pardon and release of any offender in their custody respectively, or for the remission of any part of his sentence.—Act VI., 1850, sec. iv.

## CANTONMENTS AND MILITARY BAZARS.

172. The support of the police and the maintenance of the peace within the limits of the cantonments and military bazaars (which are to be fixed in the manner hereafter stated) are hereby vested in the officers commanding the troops quartered at such places. The commanding officers will accordingly adopt the necessary measures, by means of the troops under their command, for preventing, as far as possible, the commission of thefts, robberies, murders, and other public crimes within the limits of the said cantonments and military bazaars, and for the discovery and apprehension of persons who may at any time be guilty of any such acts.—Reg. III., 1809, sec. ii., cl. 1.

173. Nothing contained in the preceding rule shall, however, be construed to authorize the commanding officers of cantonments, or the persons acting under their authority in the support of the police, to interfere with respect to assaults and petty affrays, or other offences of inferior magnitude, unless the persons guilty of those offences shall be apprehended in the actual commission of such acts.—Reg. III., 1809, sec. ii., cl. 2.

174. Any person apprehended under the preceding rules in any of the cantonments or military bazaars, on account of the commission of any public crime or offence, shall be delivered over with all practicable expedition to the magistrate of the district in which such cantonments or bazaars are situated, and the magistrate shall proceed against the accused in the manner prescribed by the general Regulations.—Reg. III., 1809, sec. ii., cl. 3.

175. If any person shall have a charge or complaint to prefer against any individual resident in any of the cantonments or military bazaars, who may not have been already apprehended by the persons intrusted therein with the support of the police, or if the charge or complaint be of a nature not to authorize those officers, under para. 173, to interfere in it, the party deeming himself aggrieved is at liberty to prefer his charge or complaint directly to the magistrate, who is hereby authorized and required to proceed with respect to it under the general Regulations, in the same manner as if the alleged crime or offence had been committed in any other part of his jurisdiction. —Reg. III., 1809, sec. iii., cl. 1.

176. Under the foregoing rule, the magistrates are of course empowered to issue their warrants and summonses against any persons residing in the cantonments and military bazaars, in the same manner as if such persons resided in any other part of their jurisdiction; and the commanding officers of stations are hereby required to afford every protection to the officers of the

judges, magistrates, and justices of the peace, in the discharge of the duty intrusted to them, whether any special application shall have been made to them for such aid or support, or otherwise. —Reg. III., 1809, sec. iii., cl. 2.

177. The above rules shall be considered applicable to all cantonments, in which any considerable body of the troops not being less than half a battalion is quartered, whether the cantonments be situated at the place of residence of the magistrate or in any other part of the district.—Reg. III., 1809, sec. v.

178. All persons serving with any part of the army and receiving public pay drawn by any officer in charge of a public department appertaining to the army, whether as lascars, magazine men, kalassies attached to magazines or any other department or establishment, native doctors, writers, bhistees, puckallies, syces, grass-cutters, mahouts, surwans, or other subordinate servants attached to public cattle, bildars, artificers, or in any other capacity, shall (provided they are borne upon the fixed establishment of the department in which they are employed, and not otherwise) be subject to be tried by a court-martial for all breaches of their respective duties, and for all disorders and neglects to the prejudice of good order and of the local regulations established by the commanding officer or other competent authority in the cantonment, garrison, station, or other places where the troops to which they are attached may be serving.—Reg. XX., 1810, sec. ii.

179. Provided that it shall not be competent for such court-martial to sentence any person of the above description to any other or heavier punishment than may now be lawfully inflicted on enlisted soldiers, under the second article of the twenty-fourth section of her Majesty's, or the second article of the fifteenth section of the Honourable Company's Articles of War, unless where the forces are serving in the field; for which case provision is already made by the existing Articles of War, from which nothing in this Regulation is to be understood to derogate.—Reg. XX., 1810, sec. iii.

180. Menial servants of officers within the precincts of any cantonment, garrison, or military station or military bazaar, although they shall not be in the receipt of public pay, shall at all times be subject to all such Regulations as shall be made by the commanding officer or other competent authority, for the maintenance of good order in such cantonment, garrison, station, or bazaar, and shall be liable to be tried by a native court-martial for any breach thereof.—Reg. XX., 1810, sec. iv.

181. The names of all persons having houses, shops, or other buildings or fixed places within the limits of the garrison, cantonment, or station, as described in the plans, in which they carry on trade, or otherwise seek a livelihood by supplying or serving the troops, shall be entered in a register to be kept in the office of the brigade-major or other station staff officer, and to be open to inspection at all reasonable hours. The name of each person shall be entered both in English and in the language and character commonly used in the district in which the station is situated, and the occupation of the person written opposite to it, in like manner, with the place of his residence and the date of the registration.—Reg. XX., 1810, sec. vii.

182. No person shall be registered as attached to the station bazaar without his free consent, and any person so registered shall be entitled at any time to demand his discharge from the registry. Persons registered shall be entitled to the privileges of registry so long only as they continue to carry on trade or other employment relating to the supply or service of the troops, at some house, shop, or fixed place within the limits above mentioned, and shall be subject during such time to all regulations made by the commanding officer or other competent authority, for the maintenance of good order and fair dealing in the station bazaar, and shall be liable to be tried by a native court-martial for any breach thereof.—Reg. XX., 1810, sec. viii.

183. The names of all persons attached to bazaars of corps shall, in like manner, be registered in a book, which shall be kept at the head quarters of the corps, and shall be open to inspection at all reasonable hours; the entries shall be made in the same manner, in all respects, as those in the registers of station bazaars.—Reg. XX., 1810, sec. ix.

184. No person shall be registered as attached to the bazaar of a corps without his free consent, and any person so registered shall be entitled at any time to require his discharge; except when the corps is on actual service, or there is an immediate prospect of its being ordered to march, in which cases it shall be in the discretion of the commanding officer to withhold such discharge, so long only as the immediate exigency of the public service requires.—Reg. XX., 1810, sec. x.

185. No person registered as attached to the bazaar of a corps shall be entitled to any of the privileges of such registry, except those who ordinarily carry on the trade or employment in respect of which they are registered, within the place allotted or commonly used for the bazaar of the corps when it is stationary.—Reg. XX., 1810, sec. xi.

186. All persons registered as attached to bazaars of corps shall, while they continue so attached, be subject to such regulations as shall be made by the commanding officer or other competent authority, for the maintenance of good order and fair dealing in the bazaar, and for the

prompt and efficient execution of such services as belong to their respective occupations, and shall be liable to be tried by a native court-martial for any breach thereof.—Reg. XX., 1810, sec. xii.

187. No court-martial shall inflict any heavier corporal punishment for the breach of a local regulation on any person attached to a bazaar of a corps, or to a station bazaar, or on any servant of an officer, than fifty lashes with a cat-o'-nine-tails, or fourteen days' confinement, or in aggravated cases both those punishments; and persons attached to bazaars of corps or station bazaars who are above the condition of petty dealers, menial servants, or workmen, shall not be liable to corporal punishment in the first instance for breach of local regulations, but shall be sentenced to pay a fine to the use of Government, which shall in no case exceed rupees one hundred, and shall be levied, if not paid forthwith, under the written order of the commanding officer, grounded on the sentence of the court, by seizure and public sale of such goods of the offender as may be found within the limits of the garrison, cantonments, or bazaar; and if sufficient goods shall not be found within the limits, the offender may be arrested by a written order of the commanding officer, and confined for one month, unless he sooner discharges the fine; and any person attached to a bazaar who shall be sentenced to a fine by a court-martial for the breach of any local regulation, and shall fail to discharge the same, shall be liable, in case of conviction for a second offence, to be sentenced to corporal punishment, in the same manner as petty dealers, workmen, or menial servants, or to be struck off the register of the station bazaar or bazaar of the corps, as the case may be.—Reg. XX., 1810, sec. xiii.

188. If any person deeming himself entitled to exemption from corporal punishment by the preceding rule shall be sentenced thereto by a court-martial, the commanding officer shall, upon appeal to him, and proof given to his satisfaction that such person is entitled to the exemption, commute the punishment for a fine not exceeding rupees one hundred, which fine shall be levied in the same manner as if it had been originally imposed by the court-martial.—Reg. XX., 1810, sec. xiv.

189. With a view also to the more effectual maintenance of good order in the garrisons, cantonments, and military bazaars, it is hereby enacted, that if any retainer of the army of the description mentioned in paragraph 178, or any menial servant of an officer, or any person registered as attached to the station or sudder bazaar, shall be charged with the commission of an inconsiderable assault or affray, or other act immediately tending to the breach of the peace and good order of any of the said garrisons, cantonments, or bazaars, within the limits thereof as described in the plans to be approved by Government, the person so accused shall be tried by a native court-martial; and such court-martial shall be empowered to punish the offender, when convicted, by imprisonment for a term not exceeding twenty days, or by imposing upon him a fine not exceeding fifty rupees, or to subject him to corporal punishment not exceeding fifty lashes with a cat-o'-nine-tails; unless the offender be of the description of persons mentioned in paragraph 178, and the act involves a military offence, and is so charged, in which case the degree of punishment is to be determined by the rule laid down in para. 179 of this Regulation.—Reg. XX., 1810, sec. xv.

190. If any retainer of the army of the description mentioned in para. 178, or any menial servant of an officer, or any person registered as attached to the sudder bazaar, shall be charged with having committed a petty theft (that is to say, theft without circumstances of violence and outrage, not exceeding the value of rupees one hundred) within the limits of the cantonment or bazaar, such charge shall be tried by a native court-martial, which shall have the power of inflicting on the offenders corporal punishment not exceeding one hundred lashes with a cat-o'-nine tails, or of imprisoning them for a term not longer than one month.—Reg. XX., 1810, sec. xvi.

191. If any such petty offences as are described in paras. 189 and 190 shall be committed within the limits of a garrison, cantonment, or military bazaar, by any person not being a retainer of the army, or the menial servant of an officer, or registered as attached to the bazaar, the commanding officer shall cause the offender, if found within the limit of the cantonment, garrison, or bazaar, to be arrested and sent to the magistrate, who shall inquire into the facts, and punish the offender, if convicted, in the same manner as in other cases of petty offences cognizable by the magistrate under the existing Regulations.—Reg. XX., 1810, sec. xvii.

192. In all cases of crimes committed within the limits of garrisons, cantonments, or military bazaars, which are not cognizable before a court-martial in the manner described in this Regulation, the offender, whatever be his description, if found within the limits, shall be arrested by the commanding officer and delivered over to the magistrate.—Reg. XX., 1810, sec. xviii.

193. In all cases in which it may be necessary to execute any process of arrest, criminal or civil, within the limits of a garrison, cantonment, military station, or military bazaar (the process of the Supreme Court only excepted), the officers intrusted with the execution of such process of arrest shall in the first instance carry the same to the commanding officer, or if he shall happen to be absent, to the senior officer actually present in the garrison, cantonment, or station; and the commanding officer or such senior officer, upon such process being produced to him, shall back the same with his signature, and shall forthwith use his utmost endeavours to cause the person or

persons named in such process to be discovered, and if within the limits of the garrison, cantonment, station, or bazaar, to be arrested and delivered according to the exigency of the process to the civil officer charged with the execution thereof; but nothing herein contained is to be construed to prevent the service by the civil officer, in the usual way of summonses, subpœnas, or other process of mere citation without arrest.—Reg. XX., 1810, sec. xix.

194. The provisions of this Regulation respecting the trial of petty offences committed within the limits of garrisons, cantonments, military stations, or military station bazaars, and the provisions of this Regulation respecting the execution of process of arrest before judgment against registered persons attached to station bazaars, are to be considered as applicable only to those garrisons, cantonments, and stations, the limits whereof shall be laid down in plans approved and confirmed by the Governor-General in Council, in the manner described in Section V. of this Regulation; and they shall be in force in such garrisons, cantonments, and military stations, respectively, from the time that the plans so approved and confirmed shall have been deposited at the head-quarters and in the cutcherry of the magistrates, in the manner prescribed in Section VI. With regard to those garrisons, cantonments, or stations, to which it may not be found practicable to assign local limits for the purposes of this Regulation, special provisions will be made hereafter, according to the circumstances of each case: in the mean time, the provisions of Regulation III. of 1809, are to be considered as in full force with respect to those garrisons, cantonments, and military stations, and the station bazaars attached thereto.—Reg. XX., 1810, sec. xx.

195. The charge of the police over persons registered as attached to bazaars of corps is vested, to the extent specified in Regulation III. of 1809, and in this Regulation, in the commanding officers of such corps, so long as such persons shall be bonâ fide carrying on the occupation in respect of which they are so registered. All such petty offences as are specified in this Regulation shall be tried and punished by a court-martial, when committed by this description of persons, under the same rule and restrictions as to the mode and measure of punishment, as are before laid down with respect to offences committed by persons attached to sudder bazaars; provided that when such offences are committed at the distance of above one coss from the stations of the corps or from its actual position on a march, and the offender is taken in the fact, the magistrate shall have a concurrent jurisdiction, and may proceed against the offender as in other cases, or at his discretion remit him to the commanding officer to be tried by court-martial.—Reg. XX., 1810, sec. xxi.

196. Nothing in this Regulation is to be construed to give any authority to commanding officers to dispossess proprietors of land or houses which may be situated within the limits of military bazaars, although such persons shall refuse to be registered as attached to the bazaar, or shall have lost, or forfeited, or resigned their privilege of registry. In all cases in which the ground allotted to those bazaars, or any part of it, is the property of Government, and the occupation of individuals has been declared by Government merely permissive, the commanding officer is empowered to make such general regulations as he may think fit (subject to the approbation of the Governor-General in Council) respecting the tenure or occupation of houses, shops, or other fixed places situated upon such ground as belongs to Government; which regulations shall in all cases be reduced to writing, and shall, after receiving the approbation of the Governor-General in Council, be published in station orders, with a translation in the language commonly used in the district, and the same shall not be of force until fourteen days after they shall have been so published within the limits of the station bazaar.—Reg. XX., 1810, sec. xxvi.

197. No person residing within the limits of any military cantonment and carrying on trade therein, or who shall have been a trader at any military cantonment, shall be allowed to recover in any Military Court of Requests for the native troops of the East-India Company, held within any such cantonment, any debt contracted in the way of trade, or for the loan of money, within any such cantonment, by any person subject to the jurisdiction of such court, unless the person seeking to recover the debt shall at the time of contracting thereof have been registered as a military bazaarman within such cantonment.—Act. XII., 1842, sec. i.

198. The commanding officer of any military station occupied by troops in the service of the East-India Company, out of the territories of the said Company, shall be competent to administer within the limits of such military station any oath which a justice of the peace is competent to administer within the said territories, and that such oath shall, in all respects, be of the same effect as if taken within the said territories before a justice of the peace.—Act. IX., 1836.

199. Native officers and sepoys, excepting subadars, jemadars, and serangs, even though in the service of the Company, who may temporarily reside or have occasion to travel in the interior parts of the country, unless employed on the public service, are forbidden to wear their uniform coats.—Reg. XI., 1806, sec. ix., cl. 5.

200. With the view of giving full effect to the orders contained in the preceding rules, the military commanding officers of stations and of detachments in the interior parts of the country, and the several zillah and city magistrates, are hereby authorized and required to deprive of a

military dress any person who shall wear it contrary to these orders; unless it shall appear that such person is in the military service of the Company, in which case he shall be sent to the corps to which he may belong, with a written complaint against him. The local officers of police are also empowered and directed to apprehend all persons of the above description, and to send them to the magistrate, who will deal with them in the manner above prescribed.—Reg. XI., 1806, sec. ix., cl. 6.

201. Military officers, or other persons to whom escorts may be allowed, when travelling through the country by land or proceeding by water, are forbidden to send sepoys or lascars into the villages, for the purpose of procuring any sort of provisions, or of pressing bearers, coolies, or boatmen. Every local officer of police, upon proper application, will, under Section VIII. of this Regulation, grant such assistance as he may be able to afford; and all violent measures, therefore, will be considered equally illegal and unnecessary.—Reg. XI., 1806, sec. ix., cl. 7.

## MILITARY COURTS OF REQUESTS.

202. All Regulations and parts of Regulations concerning Military Courts of Requests are repealed.—Act XI., 1841, sec. i.*

203. Within the territories of the East-India Company, actions of debt and other personal actions against native officers, soldiers, and other persons† amenable to the Articles of War for the native forces in the military service of the East-India Company, or residing within any station or cantonment, and carrying on any trade or business in a military bazar, shall be cognizable before a military court and not elsewhere, provided the value in question shall not exceed two hundred rupees, and the defendant was a person of the description above mentioned, when the cause of action arose, and when the suit was instituted. Provided that no suit shall be brought before any military court under this Act to determine any dispute of caste or concerning any right to real property.—Act XI., 1841, sec. ii.

204. The commanding officer of any station or cantonment, or officer commanding any portion of troops in the field, is authorized to convene such military courts. And such courts shall be composed, according to the orders of the Commander-in-Chief for the time being of the presidency within which the station or cantonment is situate, or, in the absence of such orders, according to the discretion of the convening officer, either of not less than three European commissioned officers, or of not less than three native commissioned officers, and, in the latter case, with a European officer of not less than five years' standing, to superintend and record the proceedings. Provided that if there be not a sufficient number of officers to constitute a court at the station or cantonment where any cause of action may arise, or where the defendant may be residing, the suit shall be determined at the nearest station or cantonment where a military court can be duly constituted as aforesaid.—Act XI., 1841, sec. iii.

205. Such military courts shall be convened monthly, and shall be holden on some convenient day before the issue of the pay for each month.—Act XI., 1841, sec. iv.

206. The forms of proceeding in every such court shall be conformable to the usages observed on trials before courts-martial held for the native troops in the service of the East-India Company as far as the same are applicable. And any such court shall have the like power of summoning witnesses as is possessed by courts-martial. Provided always, that every such court shall have the power of examining the parties to any suit and of requiring or dispensing with their attendance at its discretion. And every such court shall have the like power of taking the examinations of absent parties and witnesses as is possessed by the Civil Courts of the East-India Company, under Act No. VII. of 1841, provided that the depositions taken under a commission issued by any Military Court of Requests shall be receivable in evidence before any such court subsequently held: provided also, that commissions may be issued by Military Courts of Requests under this Act, pursuant to the provisions of Act No. VII. of 1841, notwithstanding the courts to which the commissions may be directed are not situate beyond the jurisdiction of such military courts.—Act XI., 1841, sec. v.

207. Witnesses omitting to attend, refusing to give evidence, or committing perjury, and persons suborning witnesses to commit perjury, shall be tried and punished, if amenable to Articles of War, by a court-martial, subject to all the rules contained in such Articles of War for the punishment of such offences in regard to trials for military offences; and if not amenable to Articles of War, they may be tried and punished in the nearest of the courts of the East-India Company for the administration of criminal justice (whether such court have ordinarily jurisdiction over such person in criminal matters or not), in like manner as if such offences had been committed in regard to any trial before such nearest court.—Act XI., 1841, sec. vi.

208. Any person, civil or military, European or native, using menacing words, signs, or

* All camp followers were declared amenable to this Act, by Act XII., 1842.

† See Art. 157, Act XIX., 1847.

gestures, or otherwise interrupting (whether being personally present or not) the proceedings of any Military Court of Requests, shall be punishable, if amenable to Articles of War, by a court-martial, or if not amenable to Articles of War, in the nearest of the courts of the East-India Company for the administration of criminal justice (whether such court have ordinarily jurisdiction over such person in criminal matters or not), in like manner as if the offence had been committed in regard to any proceeding of the court to which it is so referred.—Act XI., 1841, sec. vii.

209. A record shall be kept of proceedings in every case tried before any Military Court of Requests. And such record shall contain the substance of the evidence given, and the nature of such evidence as may have been rejected on the ground of its not being legally admissible, or relevant, or on other grounds, and the same shall be signed by the members of the said court. And such record, or a copy thereof, shall, with as little delay as is practicable, after the conclusion of the proceedings, be transmitted by the European president, or superintending officer of every such court, to the officer commanding the station or cantonment.—Act XI., 1841, sec. viii.

210. Where a demand shall exceed the amount of two hundred rupees, or where several separate demands shall exceed such amount, no more shall be recoverable from any one defendant by the same plaintiff or plaintiffs than the sum of two hundred rupees only—and the judgment in respect of any demand in a Court of Requests shall be a bar to the recovery of the same demand, or of any other or further demand for the same cause of action, in any other court whatever, provided that the liability accrued before the time of instituting the suit in the military court—and it shall be competent for every such military court to investigate any counter claim alleged by any defendant. And it shall be competent for every such military court to allow the interest for money agreed on between the parties, provided the same does not exceed the usage of the country in ordinary money transactions. And every contract made after the passing of this Act upon which a demand for debt exceeding twenty rupees is founded, not being money due for goods bought and delivered, shall be in writing and expressed in the language of the defendant and signed by him, or on his behalf by some other person than the plaintiff. Provided that it shall not be competent to any Court of Requests to admit any suit for a debt which has accrued upwards of six years, unless a direct promise to pay, made within six years of the commencement of the suit, be proved.—Act XI., 1848, sec. ix.

211. On failure of either of the parties to a suit to attend either personally or by representative, or to produce his witnesses, according as he shall be required by any Military Court of Requests, such court, on being satisfied that the party has been duly apprized of what is required of him, may proceed to the termination of the suit in his absence. And if the decree in any such case shall be against the plaintiff, it shall not be competent for him to commence a new suit for the same cause of action.—Act XI., 1848, sec. x.

212. It shall be lawful for the commanding officer, to whom the proceedings have been transmitted as aforesaid, to return the same for revision either by the same or another Military Court of Requests. And in every such case the second decree shall be final, unless for error in points of law, when the same shall be transmitted to the Commander-in-Chief, who shall have power to annul the proceedings without prejudice to any future suit. Provided always, that in the case of any new trial the court may receive evidence which was not adduced at the first trial.—Act XI., 1841, sec. xi.

213. Every plaintiff shall prefer his claim in writing and shall deliver the same to the station staff-officer. The claims shall be entered in a schedule by the station staff-officer, which schedule is to be sent to adjutants of corps or heads of departments two days at least before the assembly of the court, and the adjutants or heads of departments shall be responsible that the defendants belonging to their respective corps or establishments have been duly summoned.—Act XI., 1841, sec. xii.

214. Every decree of any Military Court of Requests shall be published in the station orders before the same is executed.—Act XI., 1841, sec. xiii.

215. The execution of decrees of Military Courts of Requests may be either general or special, according to the sentence of the court. Provided always, that the commanding officer may, nothwithstanding the direction of the court, order that the execution shall be general or special at his discretion.—Act XI., 1841, sec. xiv.

216. In cases in which the execution is to be general, the debt, if not paid forthwith, shall, under the authority of the commanding officer in writing to be signed by him, be levied by seizure and public sale of such of the debtor's goods (under which term are included, houses or other erections within the limits of stations and cantonments) as may be found within the limits of the station or cantonment, or elsewhere; and if sufficient goods are not to be found, the debtor, if not a soldier, shall be arrested and imprisoned in any civil gaol near to the station or cantonment (for which purpose the provisions of Act No. II. of 1840 shall be applicable), or in any other convenient place of confinement situate within the limits of the station or cantonment, for the space of two months, unless the debt be sooner paid, and his goods, if found within the limits of the station

or cantonments or elsewhere at any subsequent time, shall be liable to be seized and sold in satisfaction of the debt. And if the debtor be a soldier, and the debt be not liquidated by sale of his effects, accoutrements and necessaries excepted, an order may be issued for payment of the residue by monthly deduction from the pay issued to the debtor, under the rules which follow.—Act. XI., 1841, sec. xv.

217. Where the execution is to be special, the debt shall be satisfied out of the pay and allowances of the debtor, and not otherwise. And a certificate of the decree and direction or order thereon, certified under the hand of the commanding officer and signed by him, shall be a sufficient authority for making such stoppages. Provided always, that no more than one-half of the pay and allowances of any commissioned officer, or than one-fourth of the pay and allowances of any non-commissioned officer or soldier, shall be stopped in any one month.—Act XI., 1841, sec. xvi.

218. In places beyond the frontier of the territories of the East-India Company, actions of debt and other personal actions may be brought before such Military Courts as aforesaid, against persons so amenable as aforesaid, for any amount of demand: provided that such Military Courts beyond the frontier shall be composed of European officers,—and provided, that if the amount of claim shall exceed two hundred rupees, an appeal shall lie to the Court of Sudder Adawlut of the nearest presidency, according to the rules in force with regard to appeals from subordinate Civil Courts.—Act XI., 1841, sec. xvii.

219. This Act shall not affect the proceedings upon any suit heretofore commenced, or which shall be commenced before the tenth day of August next.—Act XI., 1841, sec. xviii.

220. No person residing within the limits of any military cantonment, and carrying on trade therein, or who shall have been a trader at any military cantonment, shall be allowed to recover in any Military Court of Requests for the native troops of the East-India Company, held within any such cantonment, any debt contracted in the way of trade or for the loan of money, within any such cantonment, by any person subject to the jurisdiction of such court, unless the person seeking to recover the debt shall, at the time of contracting thereof, have been registered as a military bazarman within any such cantonment.—Act XII., 1842, sec. i.

221. All persons serving with any part of the army and receiving public pay in any capacity, menial servants, and other camp followers of every description, shall be subject to the provisions of Act No. XI. of 1848, in like manner as enlisted soldiers.—Act XII., 1842, sec. ii.

222. The decrees, of which the execution is to be general, of any Military Court of Requests holden within the territories under the government of the East-India Company, or mentioned in Sec. xvii., Act XI., 1841, may be enforced in the manner provided by Act XXXIII., 1852. No such decrees, however, shall be in force against the person of the debtor if a soldier. In the case of a decree of a military Court of Requests, the copy, decree, and certificate, and translation, if any, shall be signed by the officer commanding the station or cantonment, who shall describe himself accordingly; and no proof of the decree, or of the signature or appointment of such officer, or of the jurisdiction of the court, shall be necessary, unless the court to which the same may be presented shall think fit, under any peculiar circumstances to be specified in an order, to require the same.—Act XXXIII., 1852, sec. viii.

223. A petition for execution under Act XXXIII., 1852, of any decree of a military Court of Requests may be written on plain paper.—Act XXXIII., 1852, sec. ix.

## PRIVILEGES OF NATIVE OFFICERS AND SOLDIERS IN CIVIL PROCEEDINGS.

224. Such parts of the Regulations in force as prohibit the Courts of Civil Justice from corresponding by letter with parties in depending suits, or as direct that no pleadings shall be received in any civil cause except from the parties or their authorized pleaders; such parts of the Regulations in force as require generally, that depending causes shall be brought to trial according to the order in which they may stand on the file; and such parts of the Regulations in force as prohibit the courts from furnishing copies of decrees, or from receiving mokhtarnamahs on any other paper than the prescribed stamped paper, are hereby declared to be subject to the modifications contained in the following sections of this Regulation.—Reg. XV., 1816, sec. ii.

225. Whenever a native officer or soldier on the military establishment of the presidency of Fort William may be desirous of instituting a regular or summary suit in any of the local Courts of Civil Judicature, and shall not be able to obtain a furlough or leave of absence for the purpose of superintending or conducting such suit in person, he shall be at liberty to execute a mokhtarnamah or power of attorney, drawn up according to the form No. 1 in the Appendix to this Regulation, authorizing and appointing any member of his family or other person to institute and carry on the suit, and to perform all acts in the original trial of the cause, and eventually in appeal, in the same manner as if the party were himself personally present and consenting.—Reg. XV., 1816, sec. iii., cl. 1.

226. Such mokhtarnamah shall not be required to be written on stamped paper, but shall be executed by the native officer or soldier in the presence of the commanding officer of the corps or detachment to which he may belong, who shall countersign the same, in testimony of its having been voluntarily executed.—Reg. XV., 1816, sec. iii., cl. 2.

227. The mokhtarnamah so executed is to be transmitted by the commanding officer, under cover of a public letter drawn up in the form No. 2 of the Appendix, addressed to the court in which the suit is to be instituted; and upon the receipt of such letter, a notice shall be issued by the court for the purpose of procuring the attendance, either personally or by a constituted vakeel, of the person nominated in the mokhtarnamah.—Reg. XV., 1816, sec. iii, cl. 3.

228. If such person shall refuse to attend the court in person or by a constituted vakeel, or shall decline to undertake the trust, or shall subsequently die, or be prevented by any other sufficient cause from discharging the duty confided to him, the court shall cause information of the same to be communicated to the native officer or soldier, by an extract from the proceedings of the court, enclosed in an official letter to be addressed by the judge to the commanding officer of the corps.—Reg. XV., 1816, sec. iii., cl. 4.

229. If the person nominated and appointed in the mokhtarnamah shall attend the court in person or by a constituted vakeel, and shall consent to undertake the duty confided to him, the original mokhtarnamah shall be deposited in the court and annexed to the procedings which may be held on the suit. The mokhtar or attorney, so appointed and attending, may, at his option, either prosecute the suit and conduct the pleadings in person, or may constitute for that purpose one or more of the authorized pleaders of the court. In all other respects the suit shall be instituted, tried, and determined, in conformity with the general rules in force for the institution and trial of other similar suits; provided, however, that when the native officer or soldier, who may be the real party in the suit, shall not be himself present at the time of its decision, an authenticated copy of the decree, written on unstamped paper, shall, in each instance, be transmitted through the court to the commanding officer of the corps or detachment, for the purpose of its being communicated to the native officer or soldier.—Reg. XV., 1816, sec. iii., cl. 5.

230. It is hereby explained that no part of the preceding rules, or of the subsequent provisions of this Regulation, is intended to be applicable to claims originating in loans granted by a native officer or sepoy, or in pecuniary transactions of a commercial nature.—Reg. XV., 1816, sec. iii, cl. 6.

231. Whenever a suit may be instituted in any civil court against a person being a native officer or soldier attached to a regular corps on the military establishment of the honourable Company under the presidency of Fort William, the plaintiff or appellant shall be required to state the same distinctly in his plaint or petition of appeal; and to specify, to the best of his knowledge and belief, the corps to which such native officer or soldier may be attached. If the plaintiff or appellant shall be unable to specify the corps, it shall be the duty of the court trying the suit to endeavour to ascertain the point by such means of inquiry as may appear practicable and expedient.—Reg. XV., 1816, sec. iv., cl. 1.

232. A notice in the usual form, together with a copy of the plaint or petition of appeal on unstamped paper, enclosed in an official letter drawn up according to the form No. 3 of the Appendix, shall be then transmitted by the judge, to the commanding officer of the corps, for the purpose of its being communicated to the native officer or soldier against whom the suit may have been instituted; a similar notice shall be issued, when omitted in the first instance from ignorance of the defendant's being a native officer or soldier attached to a regular corps, if at any subsequent period during the trial of the suit it should appear to the court that the defendant or respondent is a native officer or soldier as above described; and in cases in which the plaintiff or appellant shall wilfully and intentionally omit to state, in his plaint or petition of appeal, that the defendant or respondent is a native officer or soldier, the court shall impose on such plaintiff or appellant a discretionary fine, not exceeding one-fourth of the amount of the institution fee, or stamp duty, in each case.—Reg. XV., 1816, sec. iv., cl. 2.

233. The commanding officer, after causing the notice to be served on the party to whom it is addressed, if practicable, shall return it to the judge, with the written acknowledgment of the party endorsed thereupon, together with the mokhtarnamah which the party may be desirous of executing according to the form No. 1 in the Appendix, for appointing an attorney to defend the suit in his behalf. If from any cause the notice transmitted to the commanding officer cannot be served upon the native officer or soldier to whom it is addressed, it shall be returned by the commanding officer to the judge from whom it may have been received, with information of the cause which has prevented the service of it. In such case the court shall either make a further reference, with the view of causing the notice to be duly communicated to the native officer or sepoy, or shall adopt such other measures for that purpose as, on a consideration of the circumstances of each case, may appear to be proper and consistent with the Regulations.—Reg. XV., 1816, sec. iv., cl. 3.

234. When a native officer or soldier may obtain a furlough for the purpose of instituting or defending a civil suit in any of the local Courts of Civil Judicature, he shall be at liberty to request from the commanding officer of the corps or detachment, an official letter addressed to the court in which the suit is to be tried; such letter shall be drawn up according to the form No. 4 of the Appendix to this Regulation, but shall not give cover to any petition, nor contain any statement or explanation of the merits or circumstances of the case.—Reg. XV., 1816, sec. v., cl. 1.

235. Such letter shall be delivered in person by the native officer or soldier to the judge of the court, who is authorized, at the request of the party, to nominate a vakeel of the court for the purpose of furnishing to the native officer or soldier his legal aid and advice in preparing the pleadings, and in carrying on the prosecution or defence of the suit. The judge shall at the same time cause the native officer or soldier to be duly apprised of the provisions contained in Regulation XXVII., 1814, and of any other Regulation in force, relative to the duties and established fees of the pleaders attached to the civil courts, which must of course be observed whenever a native officer or soldier may wish to consult or employ a pleader.—Reg. XV., 1816, sec. v., cl. 2.

236. Nothing contained in the preceding rule shall be construed to prohibit a native officer or soldier from pleading his cause in person, or from employing any other authorized pleader of the court, whom he may prefer, instead of the pleader nominated for him by the court.—Reg. XV., 1816, sec. vi.

237. The Courts of Civil Judicature are required to bring to a hearing, without regard to the order in which they may be filed, all suits, excepting those of the nature alluded to in paragraph 230, in which a native officer or soldier, who may have obtained leave of absence from his corps, may be a party, and to pass a decision on such suits as speedily as may be consistent with the general rules in force, and with the due administration of justice.—Reg. XV., 1816, sec. vii., cl. 1.

238. If the cause cannot be brought to a decision previously to the expiration of the furlough granted to such native officer or soldier, the judge before whom the suit may be depending is vested with a discretionary authority to grant to such native officer or soldier an extension of his leave of absence for a period sufficient to admit of a reference being made to the commanding officer of the corps, with a view to ascertain whether the furlough can be prolonged for any further specific period. But whenever a judge may avail himself of the discretion above vested in him, he shall be careful to report the same immediately in an official letter to the commanding officer of the corps to which the native officer or sepoy may be attached.—Reg. XV., 1816, sec. vii., cl. 2.

239. In all cases in which a native officer or soldier may return to his corps before a final decision can be passed in his suit, he shall be at liberty either to leave the further conduct of the suit to a constituted mokhtar under a mokhtarnamah, duly executed according to the form No. 1 in the Appendix to this Regulation, or to one or more of the established pleaders of the court empowered to act for him by a regular vakalutnamah. In either case a copy of the decree which may be passed in the suit shall be transmitted for the information of the native officer or soldier, in the manner prescribed in paragraph 229.—Reg. XV., 1816, sec. vii., cl. 3.

240. Whenever any land or real property belonging to a native officer or soldier may be attached by a court of justice, for the purpose of realizing the amount of any judgment, fine or penalty imposed on such native officer or soldier, the court shall cause notice of the same to be issued in the manner prescribed in paragraph 232, and shall postpone the sale for such definite period as may appear reasonable, for the purpose of affording an opportunity to the native officer or soldier to discharge the amount of the judgment, fine or penalty.—Reg. XV., 1816, sec. viii.

241. Any registered proprietor of an estate paying revenue to Government, who may be entertained as a native officer or soldier on the military establishment under the presidency of Fort William, shall be at liberty to notify the same in a petition to the collector, specifying the rank which he may hold and the designation of the corps to which he may be attached. A memorandum of such notification shall be inserted by the collector in the public registers and accounts relative to the estate and its assessment; and in cases in which the estate, or a portion of the estate, of a native officer or soldier, who may have duly made such notification, shall become liable to public sale for the recovery of an arrear of revenue, the collector shall address an official letter to the commanding officer of the corps, drawn up in the form prescribed in No. 5 of the Appendix to this Regulation; the collector shall enclose in such letter a written notice, signed and sealed by himself and attested by the principal native officer on his establishment, specifying the amount of the arrear, the date on which it became due, and requiring it to be paid at the treasury of the collectorship within such limited period of time, as on consideration of the distance at which the corps may be stationed, and other circumstances of the case, may appear to be proper and reasonable.—Reg. XV., 1816, sec. ix., cl. 1.

242. The commanding officer of the corps shall acknowledge the receipt of the collector's letter, and shall specify the date on which the notice may have been communicated to the party,

or the circumstances which may have rendered it impracticable to make such communication.—Reg. XV., 1816, sec. ix. cl. 2.

243. If the native officer or soldier shall omit to discharge the arrear within the term specified in the notice, the collector shall report the circumstances of the case to the Board of Revenue, transmitting at the same time a copy of the notice and of his correspondence with the commanding officer, and shall be guided in his further proceedings by the orders which he may receive in each case from the Board.—Reg. XV., 1816, sec. ix., cl. 3.

244. Nothing contained in this Regulation shall be construed to affect or to alter the rules and provisions of Regulation XX., 1810; or to authorize the commanding officer of any corps or detachment to correspond with the civil courts, or with the collectors, regarding the merits of any judgment or order passed by them in the discharge of their official duty under the provisions of this Regulation.—Reg. XV., 1816, sec. x., cl. 1.

245. Nothing contained in this regulation shall be construed to modify or to affect the existing rules for the trial of civil suits, in which persons who may have been discharged from the service, or who may be attached to provincial battalions, or to local or irregular corps, or who may be camp followers, or non-combattant retainers of the army, or who may be relations, or members of the family of a native officer or soldier, may be parties; the foregoing provisions of this Regulation are to be considered as strictly and exclusively applicable to native officers or soldiers who may be entertained in regular corps and on the actual strength of the army, on the establishment of the presidency of Fort William.—Reg. XV., 1816, sec. x. cl. 2.

246. The provisions of paras. 247 and 248, forming the substance of general orders passed by the Vice-President in Council, on the 10th of April, 1810, and on the 22nd of July, 1814, are enacted, for general information.—Reg. XV., 1816, sec. xi., cl. 1.

247. The sub-treasurer at the presidency, the residents at Delhi and Lucknow, the collectors of land revenue, and the paymasters at stations subject to the presidency of Fort William, including the paymasters who may at any time be serving beyond the territories of the Honourable Company, are here authorized to grant bills in duplicate, payable at sight, and at the usual rate of exchange, on any other treasury, for any sums which may be paid into their respective treasuries on account of native officers or soldiers, who may be desirous of remitting money from one part of the country to another.—Reg. XV., 1816, sec. xi., cl. 2.

248. Provided that in all cases in which rupees may be paid into a treasury by a native officer or soldier, he shall be entitled to receive the same amount at the treasury where payment is required, without any deduction whatever.—Reg. XV., 1816, sec. xi., cl. 3.

249. All the courts of the East-India Company shall receive plaints in original suits, not being suits originating in loans, or in pecuniary transactions of a commercial nature, upon unstamped paper, when the plaintiff is a native officer or soldier in the military establishment of the presidency of Fort William.—Act XV., 1845, sec. iii.

250. Provided that the value of any stamp from which a plaintiff may be exempted by the last preceding section shall be charged in the decree on behalf of Government to the party cast, or to the parties respectively, in such proportions as may be deemed equitable.—Act XV., 1845, sec. iv.

251. If any native officer or soldier shall institute a suit under this Act in which he is not bonâ fide interested or not interested to the extent alleged in the plaint, for the purpose of enabling some otherperson to avail himself fraudulently of the advantages conferred by this Act, such native officer or soldier shall be liable to a fine not exceeding five times the value of the stamped paper which the party interested would have required for the institution of the suit otherwise than under this Act, such fine to be levied in the manner prescribed for the execution of decrees.—Act XV., 1845, sec. iv.

## RULES FOR PROVIDING MILITARY GUARDS, ESCORTS, AND DETACHMENTS IN AID OF THE CIVIL AUTHORITIES.

252. Whenever the magistrates may require detachments of troops from the regular battalions, for the apprehension of public offenders or for the maintenance of the peace in their respective districts, they shall state in writing, as fully and circumstantially as may be practicable, the nature of the service required to be performed, to the officer commanding the corps or companies from which the detachment is to be furnished; leaving it to the commanding officer, on a consideration of the circumstances stated, to judge of the strength of the force which should be employed in the execution of the duty in question.—Reg. XI., 1806, sec. xiv., cl. 1.

253. The power vested in the several magistrates by the foregoing rule being founded upon the nature and exigency of the case, which may frequently require promptitude and decision, and will seldom admit of a reference to Government, it shall be the duty of officers commanding corps and detachments immediately to furnish the necessary military aid, whenever applications may be

regularly and publicly made to them by the magistrates for troops, for the maintenance of the peace or for the support of the general police of the country. By those means, the responsibility of calling in the aid of the military will rest with the civil magistrates, and the allotment of the force will depend upon the officers commanding troops, who are not, however, on occasions of this nature, to exercise any discretion in granting or withholding the required aid But as it is, at the same time, essential to restrict the employment of military force to cases of absolute necessity, the magistrates are enjoined to confine their requisitions for military force to cases of that description, and to report to Government whenever they may apply for military aid under the rule contained in this para ; at the same time furnishing the Governor-General in Council with the necessary information respecting the circumstances upon which the application for such aid may have been grounded —Reg. XI, 1806, sec xiv., cl. 2.

254 The officers commanding troops, by whom such detachments may be furnished in pursuance of the applications of the magistrates, shall immediately transmit the necessary reports thereof to the Commander-in-Chief —Reg. XI., 1806, sec. xiv, cl 3

255 The permanent guards required by the magistrates, by the collectors of the land revenue and customs, and by any other public officers authorized to require such guards, for the protection of the public treasuries, stores, or other property, shall be in future furnished in the Ceded and Conquered Provinces from the regular battalions The civil officers requiring permanent guards shall accordingly state, fully and circumstantially, the nature of the service necessary to be performed, to the officer commanding the corps from which the guards are to be furnished. On receipt of such information, the commanding officer shall furnish guards of such strength as he may deem necessary; provided that no public objection shall occur to a compliance with the application, and that he shall be satisfied that the civil officer from whom the application may have been received was entitled to make it by the general rules and usages of the service But as the same necessity does not exist for vesting the magistrates and other public officers, in cases of this nature, with the extensive powers intrusted to the magistrates in the cases described in paragraphs 252 to 254, the commanding officer shall be at liberty, in case he shall deem it necessary or proper on any public grounds, to suspend compliance with the application, and to refer the case to the Commander-in-Chief, who will forward the representation to Government for its decision, or pass such orders on the subject as may appear to him to be proper. With the view, likewise, of preventing abuse of the powers vested in the civil officers in applying for guards from the regular battalions, the magistrates and other officers in the judicial department shall, on the receipt of the present Regulation, transmit to the Governor-General in Council a statement of the permanent guards employed or required by them, for his consideration and orders In like manner, the officers in the revenue department shall transmit to the Board of Revenue a statement of the permanent guards required by them in the discharge of the duties of their respective offices, and the Board of Revenue shall forward the statements required from the officers acting under their authority, with any remarks which they may deem necessary, for the consideration and orders of Government —Reg XI, 1806, sec xv, cl. 1

256 When the permanent guards required by the different officers in the civil department of the service shall have been fixed under the rule contained in the preceding para, no augmentation shall be made in the number of strength of such guards without the express sanction of the Governor-General in Council —Reg XI, 1806, sec xv, cl. 2.

257. The temporary escorts which may in future be required by the magistrates, by the collectors of the land revenue and customs, and by any other public officers authorized to require military aid, for the remittance of treasure, of stores, or of other public property, or for other purposes connected with their respective official situations, are in future to be furnished in the Upper Provinces from the regular battalions The civil officer requiring any such escort is accordingly to state, fully and circumstantially, the nature of the service necessary to be performed, to the officer commanding the corps from which the required escort is to be furnished On receipt of such information, the commanding officer shall furnish an escort, of such strength as he may deem necessary, for the performance of the duty in question, provided that no substantial public objection shall occur to a compliance with the application, and that he shall be satisfied that the civil officer from whom the application may have been received was entitled to make it by the general rules and usages of the service. But if not, the commanding officer shall be at liberty to suspend compliance with the application, and to refer the case to the Commander-in-Chief, who will forward the representation to Government for its decision, or pass such orders on the subject as may appear to be proper —Reg XI, 1806, sec xvi

258. It shall be the duty of the magistrates and other officers in the judicial department to transmit to Government, on the first of each month, a statement of the guards, detachments, and escorts employed by them in the preceding month The collectors and other officers in the revenue department shall in like manner transmit to the Board of Revenue, on the first of each month, a statement of the guards, detachments, and escorts employed by those officers respectively in the

preceding month; and the Board of Revenue is required to report to Government, whenever they may be of opinion that the guards, detachments, or escorts employed by the officers subject to their control were not requisite for the public service.—Reg. XI., 1806, sec. xvii.

259. The foregoing rules have been framed chiefly with a reference to the Ceded and Conquered Provinces, in which the military duties connected with the offices of the magistrates, collectors, and other public officers in the civil branch of the service, are to be performed by the men of the regular corps. Provincial battalions having been established in the provinces of Bengal, Behar, Orissa, and Benares, for the discharge of those duties, it can seldom, if ever, be necessary for the magistrates, collectors, and other civil officers in those provinces to apply for guards or detachments from the regular battalions. Should any emergency, however, at any time occur, to render the services of the regular corps necessary for the maintenance of the internal peace of the country, or for any other public duty connected with the situations of the magistrates or other civil officers, those officers, and likewise the officers commanding corps and detachments in the provinces of Bengal, Behar, Orissa, and Benares, are to conform to the rules contained in paragraphs 252 to 257.—Reg. XI., 1806, sec. xviii.

260. The foregoing rules are not to be considered applicable to the Presidency station. Whenever guards, detachments, or escorts may be required by the magistrates of Calcutta and of its vicinity, or by any of the other civil officers, for the discharge of any public duty connected with their respective official situations, they are to make the necessary application for that purpose agreeably to former usage, to the Governor-General in Council, through the channel prescribed for conducting the public correspondence.—Reg. XI., 1806, sec. xix.

261. Whenever it shall appear to the magistrate that a guard furnished from any of the regular battalions, from any provincial battalion, or from any other corps subject to martial law, has been guilty of wilful neglect in guarding the prisoners under his charge, or of connivance at the escape, or the attempt to escape, of any prisoner, or of any other act of a criminal nature in the discharge of his duty, the magistrate shall cause the offender to be delivered over to the officer commanding the provincial battalion, or the detachment to which he may belong, with a charge, in writing, that he may be tried, and punished on conviction by a court-martial.—Reg. XI., 1806, sec. x., cl. 2.

262. The mode of proceeding against military guards, directed in the preceding para., shall be observed, with respect to any other offence involving a breach of military duty and properly cognizable by courts-martial; but shall not be held applicable to any criminal charge against such guards or other sepoys, whether belonging to the provincial battalions or regular corps of the army, which may not involve a breach of military duty, and the cognizance of which may therefore appertain to the Civil Courts.—Reg. XI., 1806, sec. x., cl. 3.

## *PENSIONS OF INVALID NATIVE OFFICERS AND SOLDIERS.*

NOTE.—The rules of Reg. XLIII., 1793, Reg. I., 1804, and Reg. XI., 1806, which related to grants of land in Jaghire to native officers and soldiers, having been rescinded as to the future by Reg. II., 1811, sec. ii., and being therefore inoperative, except for the protection of a few existing rights, these are omitted with exception only of the Sections of Reg. I., 1804, specifically reserved by Reg. II., 1811, sec iv.

263. The provisions contained in Regulation I. 1804, which declare that all native commissioned and non-commissioned invalid officers not being fit for garrison duty shall be allowed the option of being transferred to the jagheerdar establishment, and Section XX. Regulation XI. 1806, by which it is enacted that native commissioned and non-commissioned officers, who may be transferred to the jagheerdar establishment, shall be entitled to the reduced pay of their rank at the established rates, in addition to the benefits which they may derive from the lands assigned to them, are rescinded.—Reg. II., 1811, sec. ii.

264. Commissioned and non-commissioned native officers who may be invalided subsequently to the date of this Regulation, shall not be deemed entitled to lands on the jagheerdar establishment; but such of those officers as shall not be considered fit for garrison duty, as well as privates not fit for such duty, shall be entitled to an advance of six months' invalid pay of their respective ranks according to the ranks hereafter specified, with permission to retire to any part of the Company's territories which they may prefer.—Reg. II., 1811, sec. iii., cl. 1.

265. All commissioned and non-commissioned native officers, as well as privates, who may be invalided subsequently to the date of this Regulation, and who may not be fit for garrison duty, shall be entitled to receive for their future support, during their lives, the pay of their respective ranks established by the orders of Government under date the 15th February, 1811, as follows:—

Rates of pay of invalid officers and privates of the regular corps, comprising cavalry, golundauze, infantry, miners, pioneers, gun-lascars, and ordnance drivers.

| | | | |
|---|---|---|---|
| Subadars ... ... ... ... ... ... ... ... ... | Rs. | 25 | 0 |
| Jemadars and serangs ... ... ... ... ... ... ... ... | | 12 | 0 |
| Havildars, naiks, native doctors, tindals, and half-cast drummers ... ... | | 7 | 0 |

| | |
|---|---|
| Troopers, sepoys, drummers (not half-cast), trumpeters, pioneers, miners of 1st class, and gun-lascars ... ... ... ... ... ... ... | 4 0 |
| Ordnance-drivers, miners of 2nd class, farriers, bheestees, syces, grass-cutters, and quarter-master's lascars ... ... ... ... ... ... ... | 3 0 |

Rates of additional pay to persons of the description included in the above statement, who may have lost a limb, or become blind on service, or have been reduced to a helpless state by wounds received on service.

| | Additional Pay. | Total. |
|---|---|---|
| Subadars ... ... ... ... ... ... ... ... | Rs. 15 0 ... | 40 0 |
| Jemadars and serangs ... ... ... ... ... ... ... | 8 0 ... | 20 0 |
| Havildars, naicks, native doctors, tindals, and half-cast drummers ... | 5 0 ... | 12 0 |
| Troopers, sepoys, drummers (not half cast), trumpeters, pioneers, miners of 1st class, and gun-lascars ... ... ... ... ... | 3 0 ... | 7 0 |
| Ordnance-drivers, miners of 2nd class, farriers, bheestees, syces, grass-cutters, and quarter-master's lascars ... ... ... ... ... | 2 0 ... | 5 0 |

Rates of invalid pay to invalids from the Ramghur battalion and hill rangers, who may be admitted to the pension establishment.

*Ramghur Battalion and Hindoostanees of the Hill Rangers.*

| | |
|---|---|
| Subadars ... ... ... ... ... ... ... ... ... | Rs. 18 0 |
| Jemadars ... ... ... ... ... ... ... ... ... | 9 0 |
| Havildars, naicks, and native doctors... ... ... ... ... ... ... | 5 8 |
| Sepoys, drummers, and bheestees ... ... ... ... ... ... ... | 3 8 |

*Hill-men of the Hill Rangers.*

| | |
|---|---|
| Subadars ... ... ... ... ... ... ... ... ... | 7 0 |
| Jemadars ... ... ... ... ... ... ... ... ... | 4 0 |
| Havildars and naicks ... ... ... ... ... ... ... .. ... | 3 0 |
| Sepoys, drummers, and bheestees ... ... ... ... ... ... ... | 2 8 |

Rates of additional pay to persons of the description included in the foregoing statement, who may have lost a limb or become blind on service, or have been reduced to a helpless state by wounds received on service.

*Ramghur Battalions and Hindoostanees of the Hill Rangers.*

| | Additional Pay. | Total. |
|---|---|---|
| Subadars ... ... ... ... ... ... ... ... | Rs. 15 0 ... | 33 0 |
| Jemadars ... ... ... ... ... ... ... ... | 8 0 ... | 17 0 |
| Havildars, naicks, and native doctors ... ... ... ... ... | 5 0 ... | 10 8 |
| Sepoys, drummers, and bheestees .. ... ... ... ... ... | 3 0 ... | 6 8 |

*Hill-men of the Hill Rangers.*

| | | |
|---|---|---|
| Subadars ... ... ... ... ... ... ... ... ... | 7 0 ... | 14 0 |
| Jemadars ... ... ... ... ... ... ... ... ... | 4 0 ... | 8 0 |
| Havildars and naicks ... ... ... ... ... ... ... | 3 0 ... | 6 0 |
| Sepoys, drummers, and bheestees... ... ... ... ... ... | 2 8 ... | 5 0 |

Rates of invalid pay for all invalids of provincial corps who may, under the rules established in the military department, be admitted to the pension establishment.

| | |
|---|---|
| Subadars ... ... ... ... ... ... ... ... ... | Rs. 15 0 |
| Jemadars ... ... ... ... ... ... ... ... ... | 7 8 |
| Havildars, naicks, and native doctors ... ... ... ... ... | 5 0 |
| Drummers and sepoys ... ... ... ... ... ... ... ... ... | 3 0 |

Rates of additional pay to persons of the description included in the foregoing statement, who may have lost a limb, or become blind on service, or have been reduced to a helpless state by wounds received on service.

| | Additional Pay. | Total. |
|---|---|---|
| Subadars ... ... ... ... ... ... ... ... | Rs. 10 0 ... | 25 0 |
| Jemadars ... ... ... ... ... ... ... ... | 5 0 ... | 12 8 |
| Havildars, naicks, and native doctors ... ... ... ... ... | 4 0 ... | 9 0 |
| Drummers and sepoys ... ... ... ... ... ... ... | 2 0 ... | 5 0 |

Reg. II., 1811, sec. iii., cl. 2.

The rates specified in the preceding tables are not to be considered applicable to persons to whom reduced invalid pay had been granted previously to the date of the orders of Government above noticed, viz. the 15th of February, 1811.—Reg. II., 1811, sec. iii., cl. 3.

266. The rules contained in paragraphs 267 to 270, shall be strictly observed in issuing the pay to the persons who may become entitled to that provision under the present Regulation. —Reg. II., 1811, sec. iv.

267. Every native commissioned, non-commissioned, and private invalid, not admitted on the jagheerdar establishment, but admitted on the pension establishment, shall, on being allowed to retire on reduced pay, receive a descriptive roll addressed to the collector of the district, specifying the name, age, and height of the invalid, the place at which he was born as well as that at which he may choose to reside, the period of his services and in what regiment or regiments he may have served, his wounds if he shall have received any, and any corporal peculiarities or marks tending to identify his person. Copies of these rolls shall be regularly forwarded to the military auditor-general.—Reg. I., 1804, sec. xxiii.

268. The half-yearly or annual presentation of this roll to the collector of the district to whom it is addressed shall entitle the invalid pensioner to receive the reduced pay of his rank; and on the receipt of the roll after his death, the collector shall pay to his heirs, or other person properly empowered to receive the amount of the arrears which may have been due at the time of his decease. —Reg. I., 1804, sec. xxiv.

269. At every half-yearly or annual payment, the invalid pensioner shall give a receipt for the amount of pay then due to him, which shall be transferred by the collector to the military auditor-general for audit, by whom it shall be returned to the collector, and received as a voucher by the accountant-general, to be charged in the military department. After the decease of an invalid pensioner, the collector shall transmit his descriptive roll to the military auditor-general, having first noticed upon it the amount of arrears paid to the heirs of the deceased.—Reg. I., 1804, sec. xxv.

270. Whenever a voucher of a pensioner's existence shall not be furnished within twelve months from the date of his last receipt of pay, he shall be struck off the roll of the collector, and shall not be again admitted without the orders of Government.—Reg. I., 1804, sec. xxvi.

271. The reduced pay or pension, however called, of any invalid officer, soldier, sailor, or retainer of the army or navy, in the military or naval service of the East-India Company, and also any monthly or yearly pension, or pecuniary allowance to any person, in consideration of past services and present infirmities, or old age, granted by authority of the Governor-General in Council, or of the Governor or Governor in Council, or Lieutenant-Governor of any presidency or place within the territories under the Government of the East-India Company; and also the pension of any out-pensioner of Chelsea or Greenwich Hospital, granted by authority of the commissioners of Chelsea or Greenwich Hospital respectively, and also all money due or to become due on account of any such pension or allowance, shall be exempt from seizure, attachment, or sequestration by process of any court within the said territories, at the instance of a creditor, for any demand against the pensioner, or in satisfaction of a decree or order of any such court.—Act VI., 1849, sec. ii.

272. All assignments, agreements, orders, sales, and securities of every kind made by any such pensioner, in respect of any money not payable at or before the making thereof, on account of any such pension, or for giving or assigning any future interest therein, are null and void.—Act VI., 1849, sec. iii.

273. This Act shall not apply to any process of any court established by royal charter, issued out of such court before the passing of this Act, or to any assignment, agreement, order, sale, or security by any such pensioner, made before the passing of this Act in respect of a Chelsea or Greenwich pension [or a pension or allowance granted in the presidency of Madras; or before the 27th of December, 1845, in respect of a pension or allowance granted in the presidency of Bombay]; or before the 27th May, 1814, in respect of a pension or allowance granted in the presidency of Bengal.—Act VI., 1849, sec. iv.

# PREFATORY NOTE

TO THE

# SECTION "LAND REVENUE."

THE present Section includes whatever pertains to the assessment, collection, and appropriation, of the Land Revenue, and the officers by whom those functions are administered.

Under the first head have been arranged all the Regulations relating to the "Settlement of the Land Revenue,"—first, those which have been continued in permanency in the Lower Provinces; and next, those which underwent a change in that respect in the Ceded and Conquered Provinces, followed by the later enactments for Cuttack, assimilated generally to those for the Lower Provinces, but not made permanent. These Regulations were the bases of the Revenue administration in those provinces respectively; they have been printed as they were originally promulgated, only omitting the rules which have been actually rescinded. References are, however, made, wherever necessary, to later rules affecting the original provisions, and in the later rules a corresponding reference is made to those in the original Settlement Regulations. Where, however, the rules for any one division of territory correspond with those before given for another division, they have not been repeated *in extenso*, but referred to.

The second head consists of the laws relating to "Realization of Revenue;" here some doubt has arison as to the extent of the rescission, by Clause Second, Section II., Regulation XI., 1822, of the rules relating to demand and attachment, and also as to how far the Act I., 1845, was intended to supersede the necessity of any coercive measures anterior to a sale. The rules apparently rescinded or superseded having been retained in many works published in India, it has been considered advisable to retain them here, with notes, calling attention to the subsequent rules which appear to affect their operation.

Next follow the rules relating to "Under Tenures," among which will be found some originally enacted for the guidance of the sequestrators of lands attached for arrears of revenue, but which appear, under the operation of Section XI., Regulation V., 1812 (paragraph 72), to have been extended to other cases of attachment.

The enactments relating to "Putnee Talooks" follow next in order; the later rules applicable to the sale of those tenures have been mixed up to some extent with those for bringing a defaulting tenant's real property to sale for arrears; in such cases the rules have not been printed in each division, but have been placed where they seemed most appropriate, and references made to them where necessary.

Under the head of "Realization of Rent," the original rules have required general modification, in consequence of sales for arrears being now conducted by

officers appointed specially by the collectors, and not by kazis and other officials as heretofore, and also by the transfer of the jurisdiction in summary suits from the Courts to the collectors. These alterations have, in two or three instances, given rise to doubts which have been noted in their place.

The three next heads, "Division of Estates," "Registry of Estates," and "Court of Wards," do not call for any especial notice.

Under the head of the "La-khiraj," the original rules for trying the validity of grants have been retained, although they are in a great measure rendered obsolete by the later rules, which vest the revenue authorities with powers to inquire into the validity of la-khiraj and mocurrery tenures, and which cast the burden of proving their validity upon the possessors.

Next follows the head "Endowments and Escheats," the rules relating to which are but few in number, and their arrangement sufficiently obvious.

Under the next division, "Pensions," the rules for deciding on claims to pensions have been omitted as having become obsolete from lapse of time.

The heads coming next in succession are "Alluvial and Derelict Lands," "Acquirement of Lands for Public Works," "Embankments and Watercourses," and "Boundary Marks," the rules for which are simple, and have undergone little change.

The last head is that of "Revenue Officers," on which it is proper to observe that the titles of the controlling boards and their jurisdictions having undergone many changes, the rules have been verbally altered, wherever necessary, to accord with their present designation, as the revenue boards in the Lower Provinces and the North-Western Provinces respectively. Regulation IX., 1816, which appointed a commissioner for the Sunderbuns, has been retained under this head, as it does not appear to have been repealed or superseded, or indeed to have received any subsequent notice. After the rules relating to Putwarries, are added a few relating to village accounts, and the section is brought to a close by the rules which relate to the powers of the revenue authorities, in calling proprietors and farmers before them.

Act XXIII., 1850, relating to the "Land Revenue of Calcutta," is appended to the division relating to "Land Revenue."

The Regulations relating to "Settlement of the Revenue" having been printed before the general arrangement of the work was decided on, the sheets composing it have not been paged in the usual place; but as the numbering at the bottom of the page is the same as what would be placed at the top were it now inserted, there appears to be no necessity for repeating the numbering. The paging, therefore, of the head "Settlement," will be found at the bottom of the page; but in the subsequent sheets in its usual place.

# LAND REVENUE.

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GOVERNMENT OF BENGAL

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# LAND REVENUE.

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# SETTLEMENT OF THE LAND REVENUE.

NOTE.—The original Regulations for the settlement of the Land Revenue are here printed as they were promulgated, excepting only that rules rescinded or superseded are omitted. Those enactments being respectively framed as containing entire and fundamental systems of financial administration, it appeared inexpedient to alter their form and arrangement in any manner, by separately classifying their provisions under appropriate heads, or by introducing among them the additional or modifying rules subsequently enacted; attention, however, is in all cases directed to such rules, and the places where they are to be found are indicated.

## LOWER PROVINCES.

### PERMANENT SETTLEMENT.

1. The following articles of the proclamation relative to the limitation of the public demand upon the lands, addressed by the Governor-General in Council to the zemindars, independent talookdars, and other actual proprietors of land paying revenue to Government, in the provinces of Bengal, Behar, and Orissa, are hereby enacted into a Regulation, which is to have force and effect from the 22nd March, 1793, the date of the proclamation.—Reg. I., 1793, sec. i.

#### PROCLAMATION.

2. Art. I. In the original Regulations for the decennial settlement of the public revenues of Bengal, Behar, and Orissa, passed for those provinces respectively on the 18th September, 1789, the 25th November, 1789, and the 10th February, 1790, it was notified to the proprietors of land, with or on behalf of whom a settlement might be concluded, that the jumma assessed upon their lands under those Regulations would be continued after the expiration of the ten years, and remain unalterable for ever, provided such continuance should meet with the approbation of the Honourable Court of Directors for the affairs of the East-India Company, and not otherwise.—Reg. I., 1793, sec. ii.

3. Art. II. The Marquis Cornwallis, Knight of the most noble order of the Garter, Governor-General in Council, now notifies to all zemindars, independent talookdars, and other actual proprietors of land paying revenue to Government, in the provinces of Bengal, Behar, and Orissa, that he has been empowered by the Honourable Court of Directors for the affairs of the East-India Company to declare the jumma, which has been, or may be assessed upon their lands under the Regulations above-mentioned, fixed for ever.—Reg. I., 1793, sec. iii.

4. Art. III. The Governor-General in Council accordingly declares to the zemindars, independent talookdars, and other actual proprietors of land, with or on behalf of whom a settlement has been concluded under the Regulations above-mentioned, that at the expiration of the term of the settlement, no alteration will be made in the assessment which they have respectively engaged to pay, but that they, and their heirs and lawful successors, will be allowed to hold their estates at such assessment for ever.—Reg. I., 1793, sec. iv.

5. Art. IV. The lands of some zemindars, independent talookdars, and other actual proprietors of land, having been held khas, or let in farm, in consequence of their refusing to pay the assessment required of them under the Regulations above-mentioned, the Governor-General in Council now notifies to the zemindars, independent talookdars, and other actual proprietors of land, whose lands are held khas, that they shall be restored to the management of their lands, upon their agreeing to the payment of the assessment which has been, or may be required of them, in conformity to the Regulations above-mentioned, and that no alteration shall afterwards be made in that assessment, but that they, and their heirs and lawful successors, shall be permitted to hold their respective estates at such assessment for ever: and he declares to the zemindars, independent talookdars, and other actual proprietors of land, whose lands have been let in farm, that they shall not regain possession of their lands before the expiration of the period for which they have been farmed (unless the farmers shall voluntarily consent to make over to them the remaining term of their lease, and the Governor-General in Council shall approve of the transfer), but that at the expiration of that period, upon their agreeing to the payment of the assessment which may be required of them, they shall be reinstated, and that no alteration shall afterwards be made in

that assessment, but that they, and their heirs and lawful successors, shall be allowed to hold their respective estates at such assessment for ever.—Reg. I., 1793, sec. v.

6. Art. V. In the event of the proprietary right in lands that are, or may become, the property of Government being transferred to individuals, such individuals, and their heirs and lawful successors, shall be permitted to hold the lands at the assessment at which they may be transferred for ever.—Reg. I., 1793, sec. vi.

7. Art. VI. It is well known to the zemindars, independent talookdars, and other actual proprietors of land, as well as to the inhabitants of Bengal, Behar, and Orissa, in general, that from the earliest times until the present period, the public assessment upon the lands has never been fixed, but that, according to established usage and custom, the rulers of these provinces have from time to time demanded an increase of assessment from the proprietors of land; and that, for the purpose of obtaining this increase, not only frequent investigations have been made to ascertain the actual produce of their estates, but that it has been the practice to deprive them of the management of their lands, and either to let them in farm, or to appoint officers on the part of Government to collect the assessment immediately from the ryots. The Honourable Court of Directors, considering these usages and measures to be detrimental to the prosperity of the country, have, with a view to promote the future ease and happiness of the people, authorized the foregoing declarations; and the zemindars, independent talookdars, and other actual proprietors of land, with or on behalf of whom a settlement has been or may be concluded, are to consider these orders fixing the amount of the assessment as irrevocable, and not liable to alteration by any persons whom the Court of Directors may hereafter appoint to the administration of their affairs in this country.

The Governor-General in Council trusts that the proprietors of land, sensible of the benefits conferred upon them by the public assessment being fixed for ever, will exert themselves in the cultivation of their lands, under the certainty that they will enjoy exclusively the fruits of their own good management and industry, and that no demand will ever be made upon them, or their heirs or successors, by the present or any future Government, for an augmentation of the public assessment in consequence of the improvement of their respective estates.

To discharge the revenues at the stipulated periods without delay or evasion, and to conduct themselves with good faith and moderation towards their dependent talookdars and ryots, are duties at all times indispensably required from the proprietors of land, and a strict observance of those duties is now more than ever incumbent upon them, in return for the benefits which they will themselves derive from the orders now issued. The Governor-General in Council therefore expects that the proprietors of land will not only act in this manner themselves towards their dependent talookdars and ryots, but also enjoin the strictest adherence to the same principles in the persons whom they may appoint to collect the rents from them. He further expects, that without deviating from this line of conduct, they will regularly discharge the revenue in all seasons; and he accordingly notifies to them, that in future no claims or applications for suspensions or remissions on account of drought, inundation, or other calamity of season, will be attended to; but that in the event of any zemindar, independent talookdar, or other actual proprietor of land, with or on behalf of whom a settlement has been or may be concluded, or his or her heirs or successors failing in the punctual discharge of the public revenue which has been or may be assessed upon their lands under the above-mentioned Regulations, a sale of the whole of the lands of the defaulter, or such portion of them as may be sufficient to make good the arrear, will positively and invariably take place.—Reg. I., 1793, sec. vii.

8. Art. VII. To prevent any misconstruction of the foregoing articles, the Governor-General in Council thinks it necessary to make the following declarations to the zemindars, independent talookdars, and other actual proprietors of land.

*First.* It being the duty of the ruling power to protect all classes of people, and more particularly those who, from their situation, are most helpless, the Governor-General in Council will, whenever he may deem it proper, enact such Regulations as he may think necessary for the protection and welfare of the dependent talookdars, ryots, and other cultivators of the soil, and no zemindar, independent talookdar, or other actual proprietor of land, shall be entitled on this account to make any objection to the discharge of the fixed assessment which they have respectively agreed to pay.

*Second.* The Governor-General in Council having on the 28th July, 1790, directed the sayer collections to be abolished, a full compensation was granted to the proprietors of land for the loss of revenue sustained by them in consequence of this abolition; and he now declares, that if he should hereafter think it proper to re-establish the sayer collections, or any other internal duties, and to appoint officers on the part of Government to collect them, no proprietor of land will be admitted to any participation thereof, or be entitled to make any claims for remissions of assessment on that account.

*Third.* The Governor-General in Council will impose such assessment as he may deem

equitable on all lands at present alienated and paying no public revenue, which have been or may be proved to be held under illegal or invalid titles. The assessment so imposed will belong to Government, and no proprietor of land will be entitled to any part of it.

*Fourth.* The jumma of those zemindars, independent talookdars, and other actual proprietors of land, which is declared fixed in the foregoing articles, is to be considered entirely unconnected with and exclusive of any allowances which have been made to them in the adjustment of their jumma for keeping up tannahs or police establishments, and also of the produce of any lands which they may have been permitted to appropriate for the same purpose; and the Governor-General in Council reserves to himself the option of resuming the whole or part of such allowances or produce of such lands, according as he may think proper, in consequence of his having exonerated the proprietors of land from the charge of keeping the peace, and appointed officers on the part of Government to superintend the police of the country. The Governor-General in Council, however, declares that the allowances or produce of lands which may be resumed, will be appropriated to no other purpose but that of defraying the expense of the police, and that instructions will be sent to the collectors not to add such allowances or the produce of such lands to the jumma of the proprietors of land, but to collect the amount from them separately.

NOTE.—It was enacted by Clause Second, Section ii., Regulation VI., 1797, that "the produce of lands and the allowances resumed or resumable" under the above clause "being still applicable towards defraying the expense of the police, are to be carried to the public account towards discharging the same as heretofore."

*Fifth.* Nothing contained in this proclamation shall be construed to render the lands of the several descriptions of disqualified proprietors, specified in the first article of the Regulations regarding disqualified landholders, passed on the 15th July, 1791, liable to sale for any arrears which have accrued, or may accrue, on the fixed jumma that has been, or may be assessed upon their lands under the above-mentioned Regulations for the decennial settlement; provided that such arrears have accrued, or may accrue, during the time that they have been, or may be dispossessed of the management of their lands, under the said Regulations of the 15th July, 1791. It is to be understood, however, that whenever all or any of the descriptions of disqualified landholders, specified in the first article of the last-mentioned Regulation, shall be permitted to assume or retain the management of their lands, in consequence of the ground of their disqualification no longer existing, or of the Governor-General in Council dispensing with, altering, or abolishing those Regulations, the lands of such proprietors will be held responsible for the payment of the fixed jumma that has been or may be assessed thereon, from the time that the management may devolve upon them, in the same manner as the lands of all actual proprietors of land who are declared qualified for the management of their estates, and also of all actual proprietors who are unqualified for such management, by natural or other disabilities, but do not come within the descriptions of disqualified landholders specified in the first article of the Regulations of the 15th July, 1791, are, and will be held answerable for any arrears that are, or may become due from them, on the fixed jumma which they, or any persons on their behalf, have engaged, or may engage to pay, under the above-mentioned Regulations, for the decennial settlement.—Reg. I., 1793, sec. viii.

9. Art. VIII. That no doubt may be entertained whether proprietors of land are entitled, under the existing Regulations, to dispose of their estates without the previous sanction of Government, the Governor-General in Council notifies to the zemindars, independent talookdars, and other actual proprietors of land, that they are privileged to transfer to whomsoever they may think proper, by sale, gift, or otherwise, the proprietary rights in the whole, or any portion of their respective estates, without applying to Government for its sanction to the transfer, and that all such transfers will be held valid, provided that they be conformable to the Mahommedan or the Hindoo laws (according as the religious persuasions of the parties to each transaction may render the validity of it determinable by the former or the latter code), and that they be not repugnant to any Regulations, now in force, which have been passed by the British administrations, or to any Regulations that they may hereafter enact.—Reg. I. 1793, sec. ix.

10. Art. IX. From the limitation of the public demand upon the lands, the neat income, and consequently the value (independent of increase of rent obtainable by improvements) of any landed property, for the assessment on which a distinct engagement has been, or may be entered into between Government and the proprietor, or that may be separately assessed, although included in one engagement with other estates belonging to the same proprietor, and which may be offered for public or private sale entire, will always be ascertainable by a comparison of the amount of the fixed jumma assessed upon it (which, agreeable to the foregoing declarations, is to remain unalterable for ever, to whomsoever the property may be transferred), with the whole of its produce, allowing for the charges of management. But it is also essential, that a notification should be made of the principles upon which the fixed assessment charged upon any such estate will be apportioned on the several divisions of it, in the event of the whole of it being transferred by public or private sale, or otherwise, in two or more lots, or of a portion of it being transferred

in one, or in two or more lots, or of its being joint property, and a division of it being made amongst the proprietors; otherwise from the want of a declared rule for estimating the proportion of the fixed jumma with which the several shares would be chargeable in such cases, the real value of each share would be uncertain, and consequently the benefits expected to result from fixing the public assessment upon the lands, would be but partially obtained. The Governor-General in Council has accordingly prescribed the following rules for apportioning the fixed assessment in the several cases above mentioned; but as Government might sustain a considerable loss of revenue by disproportionate allotments of the assessment, were the apportioning of it, in any of the cases above specified, to be left to the proprietors, he requires that all such transfers or divisions as may be made by the private act of the parties themselves be notified to the collector of the revenue of the zillah in which the lands may be situated, or such other officer as Government may in future prescribe, in order that the fixed jumma assessed upon the whole estate may be apportioned on the several shares in the manner hereafter directed, and that the names of the proprietors of each share, and the jumma charged thereon, may be entered upon the public registers, and that separate engagements for the payment of the jumma assessed upon each share may be executed by the proprietors, who will thenceforward be considered as actual proprietors of land. And the Governor-General in Council declares, that if the parties to such transfers or divisions shall omit to notify them to the collector of the revenue of the zillah, or such other officer as may be hereafter prescribed, for the purposes before mentioned, the whole of such estate will be held responsible to Government for the discharge of the fixed jumma assessed upon it, in the same manner as if no such transfer or division had ever taken place. The Governor-General in Council thinks it necessary further to notify, in elucidation of the declarations contained in this article (which are conformable to the principles of the existing Regulations), that if any zemindar, independent talookdar, or other actual proprietor of land, shall dispose of a portion of his or her lands as a dependent talook, the jumma which may be stipulated to be paid by the dependent talookdar will not be entered upon the records of Government, nor will the transfer exempt such lands from being answerable, in common with the remainder of the estate, for the payment of the public revenue assessed upon the whole of it, in the event of the proprietor, or his or her heirs or successors, falling in arrear from any cause whatever; nor will it be allowed, in any case, to affect the rights or claims of Government, any more than if it had never taken place.

*First.* In the event of the whole of the lands of a zemindar, independent talookdar, or other actual proprietor of land, with or on behalf of whom a settlement has been, or may be concluded, under the Regulations above mentioned, being exposed to public sale by the order of the Governor-General in Council, for the discharge of arrears of assessment, *or in consequence of the decision of a court of justice*, in two or more lots, the assessment upon each lot shall be fixed at an amount which shall bear the same proportion to its actual produce, as the fixed assessment upon the whole of the lands sold may bear to the whole of their actual produce. This produce shall be ascertained in the mode that is, or may be prescribed by the existing Regulations, or such other Regulations as the Governor-General in Council may hereafter adopt, and the purchaser or purchasers of such lands, and his, or her, or their heirs and lawful successors, shall hold them at the jumma at which they may be so purchased, for ever.

*Second.* When a portion of the lands of a zemindar, independent talookdar, or other actual proprietor of land, with or on behalf of whom a settlement has been, or may be concluded, under the Regulations before mentioned, shall be exposed to public sale, by order of the Governor-General in Council, for the liquidation of arrears of assessment, *or pursuant to the decision of a court of justice*, the assessment upon such lands, if disposed of in one lot, shall be fixed at an amount which shall bear the same proportion to their actual produce, as the fixed assessment upon the whole of the lands of such proprietor, including those disposed of, may bear to the whole of their actual produce. If the lands sold shall be disposed of in two or more lots, the assessment upon each lot shall be fixed at an amount which shall bear the same proportion to its actual produce, as the fixed assessment upon the whole of the lands of such proprietor, including those sold, may bear to the whole of their actual produce. The actual produce of the whole of the lands of such proprietor, whether the portion of them which may be sold be disposed of in one, or in two or more lots, shall be ascertained in the mode that is or may be prescribed by the existing Regulations, or such other Regulations as the Governor-General in Council may hereafter enact, and the purchaser or purchasers of such lands, and his, or her, or their heirs or successors, will be allowed to hold them at the jumma at which they may be so purchased for ever; and the remainder of the public jumma, which will consequently be payable by the former proprietor of the whole estate, on account of the portion of it that may be left in his or her possession, will continue unalterable for ever.

*Third.* When a zemindar, independent talookdar, or other actual proprietor of land, with or on behalf of whom a settlement has been or may be concluded, shall transfer the whole of his or

her estate, in two or more distinct portions, to two or more persons, or a portion thereof to one person, or to two or more persons in joint property, by private sale, gift, or otherwise, the assessment upon each distinct portion of such estate so transferred shall be fixed at an amount which shall bear the same proportion to its actual produce as the assessment upon the whole of the estate of the transferring proprietor, of which the whole or a portion may be so transferred, may bear to the whole of its actual produce. This produce shall be ascertained in the mode that is or may be prescribed in the existing Regulations, or such other Regulations as Government may hereafter adopt, and the person or persons to whom such lands may be transferred, and his, or her, or their heirs and lawful successors, shall hold them at the jumma at which they may be so transferred, for ever; and where only a portion of such estates shall be transferred, the remainder of the public jumma which will consequently be payable by the former proprietor of the whole estates on account of the lands that may remain in his or her possession, shall be continued unalterable for ever.

*Fourth.* Whenever a division shall be made of lands, the settlement of which has been or may be concluded with or on behalf of the proprietor or proprietors, and that are or may become the joint property of two or more persons, the assessment upon each share shall be fixed at an amount which shall bear the same proportion to its actual produce as the fixed jumma assessed upon the whole of the estate divided may bear to the whole of its actual produce. This produce shall be ascertained in the mode that is or may be prescribed by the existing Regulations, or such other Regulations as the Governor-General in Council may hereafter adopt, and the sharers, and their heirs and lawful successors, shall hold their respective shares at the jumma which may be so assessed upon them, for ever.—Reg. I., 1793, sec. x.

NOTE.—See additional rule in Paragraph 12.
So much of the above and of the following section as relates to the adjustment of the jumma on lands sold in satisfaction of decrees is repealed by Act IV., 1846.

11. Art. X. The following rules are prescribed respecting the adjustment of the assessment on the lands of zemindars, independent talookdars, and other actual proprietors of land, whose lands are or may be held khas or let in farm in the event of their being disposed of by public sale, or transferred by any private act of the proprietor, or of their being joint property, and a division of them taking place amongst the proprietors.

*First.* If the whole or a portion of the lands of a zemindar, independent talookdar, or other actual proprietor of land, who may not have agreed to the payment of the assessment proposed to him or her under the Regulations above mentioned, and whose lands are or may be held khas or let in farm, shall be exposed to public sale in one, or in two or more lots (*pursuant to the decree of a court of justice*), such lands, if khas, shall be disposed of at whatever assessment the Governor-General in Council may deem equitable, and the purchaser or purchasers of such lands, and his, or her, or their heirs and lawful successors, shall hold the lands at the assessment at which they may be so purchased, for ever. If the lands, at the time of their being exposed to sale, shall be held in farm, and shall be put up in one, or in two or more lots, they shall be disposed of under the following conditions:—The purchaser or purchasers shall receive during the unexpired part of the term of the lease of the farmer, whatever such proprietor shall have been entitled to receive, in virtue of his or her proprietary rights, on account of the lands so purchased, and such purchaser or purchasers shall engage to pay, at the expiration of the lease of the farmer, such assessment on account of the lands as Government may deem equitable. The sum to be received by the purchaser or purchasers during the unexpired part of the term of the lease of the farmer, and the jumma to be paid by such purchaser or purchasers after the expiration of the lease, shall be specified at the time of the sale, and such purchaser or purchasers, and his, or her, or their heirs and lawful successors, shall be allowed to hold the lands at the assessment at which they may be so purchased, for ever.

*Second.* If a zemindar, independent talookdar, or other actual proprietor of land, whose lands are or may be held khas or let in farm, shall transfer by private sale, gift, or otherwise, the whole or a portion of his or her lands in one, or in two or more lots, the person or persons to whom the lands may be so transferred, shall be entitled to receive from Government (if the lands are held khas), or from the farmer (if the lands are let in farm), the malikanah to which the former proprietor was entitled on account of the lands so transferred. Persons to whom such lands may be so transferred, will stand in the same predicament as the zemindars, independent talookdars, or other actual proprietors of land mentioned in the fourth article, whose lands are held khas, or have been let in farm, in consequence of their refusing to pay the assessment required of them under the before-mentioned Regulations for the decennial settlement, and the declarations contained in that article are to be held applicable to them.

*Third.* In the event of a division being made of lands that are or may become the joint property of two or more persons, and which are or may be held khas or let in farm, the proprietors of the several shares will stand in the same predicament, with regard to their

respective shares, as the zemindars, independent talookdars, and other actual proprietors of land specified in the fourth article, whose lands have been let in farm or are held khas, in consequence of their having refused to pay the assessment required of them under the before-mentioned Regulations for the decennial settlement, and the declarations contained in that article are to be considered applicable to them.

*Rule in addition to Paragraph* 10.

12. This rule is to be strictly observed in all cases, whether of public sale or private transfer, or of division between sharers, heirs, or joint proprietors of whatever description; and it is hereby explained, that by the term "actual produce" is to be understood the neat annual rent, or other neat produce receivable by the proprietor, after deducting from the gross rent, or other gross produce, the actual expense of collection and other usual charges of management, inclusive of poolbundy or the expense of embankments, and similar incidental expenses, where such may be paid by the proprietor from his gross receipts, but exclusive of his malikanah or proprietary income, and all other personal appropriations of the gross produce of his estate, as such can have no claim to consideration in determining the neat produce for an equal division of landed property, or for the allotment of the public assessment thereto in conformity to the prescribed rule. Whenever the collector, or other public officer to whom the allotment of the assessment upon the portion of an estate may be committed, shall have reason to suspect the accuracy of the village accounts produced by a putwarry; or if such accounts shall be found to have been fabricated or altered, or not to be the true accounts; or if in any case the true village accounts of the lands, rents, receipts, and disbursements, may not be forthcoming, but the collector or other officer, under the powers vested in him, shall have obtained satisfactory accounts for the three past years of the lands and rents of the entire zemindarry, talook, or other estate, with a specification of the mehal or mehals proposed to be separately assessed, he shall adjust the assessment upon such mehal or mehals, under the general rule of proportion, according to the average neat produce (as above explained) ascertainable from the general accounts of the estate so obtained, without further regard to the village accounts than may appear to him proper, with a view to compare and check the other accounts. Provided, however, that in all cases the collector or other officer shall adopt every authorized measure to obtain the most accurate accounts procurable, and shall fully satisfy himself that the accounts from which he may compute the neat produce of an estate to be divided and distinctly assessed are sufficiently accurate to prevent any risk of loss to Government from the proposed allotment of the assessment; without evidence of which, no distinct assessment is to be proposed by any collector, or approved by the Board of Revenue. Provided further, that nothing in this Regulation shall be understood to authorize the collectors to fix the amount of the assessment to be allotted upon the portion of an estate, whether publicly or privately disposed of, without the sanction of the Board of Revenue; or to alter the provisions made for the correction of error or collusion in such allotments in cases of private divisions of estates.—Reg. I., 1801, sec. viii.

## DECENNIAL SETTLEMENT.

13. The original rules for forming a decennial settlement of the revenue to be paid from the lands in Bengal, Behar, and Orissa, passed for those provinces respectively on the 18th September, 1789; 25th November, 1789; and 10th February, 1790, having undergone considerable alterations during the progress of the arrangement, an amended code of rules, including the original rules and the subsequent alterations, was passed on the 23rd November, 1791. That code is now re-enacted, with modifications and amendments adapted to the principles of Regulations II. and III., 1793, by which the judicial powers heretofore vested in the collectors of the revenue as superintendents of the late Courts of Mal Adawlut, or Revenue Courts, are transferred to the Courts of Dewanny Adawlut, or Courts of Civil Judicature, established in the several zillahs and cities for the trial of all civil suits in the first instance.—Reg. VIII., 1793, sec. i.

14. A new settlement of the land revenue shall be concluded for a period of ten years, to commence with the Fussily, Willaity, and Bengal year 1197, for Behar, Orissa, and Bengal, respectively.—Reg. VIII., 1793, sec. ii.

15. It shall be at the same time notified to the proprietors of land with whom the settlement may be concluded, that the assessment fixed by the decennial settlement will be continued after the expiration of the ten years, and remain unalterable for ever, provided such continuance shall meet with the approbation of the Honourable Court of Directors, but not otherwise.—Reg. VIII., 1793, sec. iii.

16. The settlement, under certain restrictions and exceptions hereafter specified, shall be con-

cluded with the actual proprietors of the soil, of whatever denomination, whether zemindars, talookdars, or chowdries.—Reg. VIII., 1793, sec. iv.

17. *First.* The talookdars to be considered the actual proprietors of the lands composing the talooks are the following:—

*Second.* Talookdars who purchased their lands by private or at public sale, or obtained them by gift from the zemindar or other actual proprietor of land to whom they now pay the revenue assessed upon their talooks, or from his ancestors, subject to the payment of the established dues of Government, and who received deeds of sale, or gift of such land, from the zemindar, or sunnuds from the khalsa, making over to them his proprietary rights therein.

*Third.* Talookdars, whose talooks were formed before the zemindar, or other actual proprietor of land to whom they may now pay their revenue, or his ancestors, succeeded to the zemindarry.

*Fourth.* Talookdars, the lands comprised in whose talooks were never the property of the zemindar, or other actual proprietor of the soil to whom they now pay their revenue, or his ancestors.

*Fifth.* Talookdars who have succeeded to talooks of the nature of those described in the preceding clauses, by right of purchase, gift, or inheritance, from the former proprietor of such talooks.—Reg. VIII., 1793, sec. v., cl. 5.

18. The proprietors of talooks, however, who now pay the public revenue assessed upon their lands through a zemindar, or other actual proprietor of land, and whose title-deeds contain a clause stipulating that their revenue is to be paid through him, shall continue to pay their revenue through such zemindar, or other actual proprietor of land, as heretofore.—Reg. VIII., 1793, sec. vi.

19. Talookdars, whose talooks are held under writings or sunnuds from zemindars, or other actual proprietors of lands, which do not expressly transfer the property in the soil, but only entitle the talookdar to possession so long as he continues to discharge the rent or perform the conditions stipulated therein, are considered as leaseholders only, not actual proprietors of the soil, and consequently are not entitled to be rendered independent of the zemindar, or other actual proprietor of land, from whom they derive their tenures, provided they now pay the rent assessed upon their talooks to him.—Reg. VIII., 1793, sec. vii.

20. Talookdars, also, whose tenure is denominated jungleboory, and is of the following description, are not considered entitled to separation from the proprietors of whom they hold. The pottahs granted to these talookdars, in consideration of the grantee clearing away the jungle and bringing the land into a productive state, give it to him and his heirs in perpetuity, with the right of disposing of it either by sale or gift, exempting him from payment of revenue for a certain term, and at the expiration of it subjecting him to a specific assul jumma, with all increases, abwabs, and mahtoots imposed on the pergunnah generally; but this for such part of the land only as the grantee brings into a state of cultivation: and the grantee is further subject to the payment of a certain specified portion of all complimentary presents and fees which he may receive from his under-tenants, exclusive of the fixed revenue. The pottah specifies the boundaries of the land granted, but not the quantity of it, until it is brought into cultivation.—Reg. VIII., 1793, sec. viii.

21. The rules in paragraph 17 respecting talooks, have also been extended to ayma lands liable to the payment of a fixed quit revenue, denominated malguzary aymas; and, agreeably to the distinctions laid down in that section, it has been ordered, that such malguzary ayma tenures as are held under grants of the Mahomedan Government previous to the Company's accession to the Dewanny, or which have been since granted by proprietors of estates for a consideration received by them, are to be separated from the proprietors to whom their revenue is now paid, as coming within the spirit of the rules for the separation of talookdars who are proprietors of the lands composing their talooks. But malguzary ayma tenures which may appear to have been bonâ fide granted for the purpose of bringing waste lands into cultivation, shall continue included in the estates to which they are now annexed, as coming within the rules in paragraph 20, respecting jungleboory talooks.—Reg. VIII., 1793, sec. ix.

22. The rules contained in the following paragraph have been prescribed for the guidance of the collectors in carrying into execution the rules relative to the separation of talookdars, who are the actual proprietors of the lands composing their talooks and are declared entitled to separation. —Reg. VIII., 1793, sec. x.

23. Every talookdar being considered as the rightful possessor of his talook, until a better title is established against him by due course of law, the point to be ascertained by the collectors, in carrying the above-mentioned orders into effect, is not whether the holders of the several talooks under their authority are the lawful possessors of the talooks held by them, but whether the nature of their tenure is such as to entitle them to separation, under the rules contained in paragraphs 17 and 21; to ascertain which, they are to call upon the talookdars to produce their title-deeds, and after having examined them, are to separate from the jurisdiction of the zemindars, or other

actual proprietors of estates, those who may appear to them to be actual proprietors of the lands composing their talooks, as described in those paragraphs, continuing the remainder under the zemindars, or other actual proprietors, as heretofore. If a talookdar should have no title-deeds to produce, the collector is to make a summary inquiry into his right to separation, and after attending to such proofs and documents as may be produced by the talookdar in support of his title to separation, and by the zemindar, or other actual proprietor, in objection thereto, is to decide, according to the best of his judgment, whether such talookdar be entitled to separation or not, and conclude the settlement accordingly.—Reg. VIII., 1793, sec. xi.

24. The collectors are to acquaint the talookdars whom they may adjudge not to be actual proprietors of the lands composing their talooks, and consequently continue under the zemindars, or other actual proprietors, as heretofore, that if dissatisfied with their decision, they are at liberty to sue such zemindars, or actual proprietors of land, in the Court of Dewanny Adawlut of the zillah, for the right of property in their talooks; and that, in the event of their establishing such right, they will be separated from such zemindars, or other actual proprietors, and allowed to pay the revenue assessed upon their talooks to the public treasury. They are also to acquaint the zemindars, or other actual proprietors from whose estates talooks may be separated, and who may be dissatisfied with such separation, on the grounds of the holders of such talooks not being the actual proprietors of them, and consequently not entitled to separation under paragraphs 17 and 21, that they are at liberty to sue such talookdars in the Court of Dewanny Adawlut, for the right of property in their talooks, and that, in the event of their establishing such right, the talooks will be replaced under them as heretofore. The right of property in every talook, in cases where it may be disputed, will thus be tried and decided upon according to law, in the Court of Dewanny Adawlut of the zillah, and either party dissatisfied with the decision of the judge will have an appeal therefrom to the Sudder Dewanny Adawlut, in cases that may be appealable to that court. —Reg. VIII., 1793, sec. xii.

25. Talookdars ordered to be separated are not to be permitted to pay the revenue assessed upon their lands through the zemindars, or other actual proprietors of estates as heretofore.—Reg. VIII., 1793, sec. xiii.

26. Talookdars who, in consequence of the rules in paragraphs 17 and 21, may be separated from the zemindars, or other actual proprietors of estates, through whom they heretofore paid their revenues, are to pay their revenue in future immediately into the collector's treasury; except in districts where, from the number of talooks, or other cause, this mode would be attended with considerable inconvenience, in which case tehseeldars, or native collectors, are to be appointed to receive the revenue of the talooks in such districts.—Reg. VIII., 1793, sec. xiv.

27. Zemindars, or other actual proprietors of land, from whose zemindaries or estates talooks may be separated, shall not be appointed tehseeldars to receive the revenue of the talooks so separated; but the office of tehseeldar shall in every instance be given to some other person of character and responsibility; and the whole expense of it is to be defrayed by Government.—Reg. VIII., 1793, sec. xv.

NOTE.—Additional rules relating to talooks will be found under the head of "TALOOKS, UNDER-TENURES," &c.

28. Mocurrery leases to persons not the actual proprietors of the lands included in such leases, if granted or confirmed by the Supreme Government, or obtained previous to the Company's accession to the Dewanny, are to be continued in force during the lives of the lessees, subject to an abatement of the fixed jumma for the authorized sayer resumed or abolished; but on their death, the settlement is to be made with the actual proprietors of the soil agreeably to this Regulation.—Reg. VIII., 1793, sec. xvi.

29. Mocurrery grants to the actual proprietors of the soil, made or confirmed by the Supreme Government, are also to be continued in force, subject, in like manner, to an abatement of the fixed jumma on account of the resumption or abolition of the authorized sayer. The rules contained in this paragraph and paragraph 28 are to be considered subject to the future confirmation or revocation of the Honourable Court of Directors.—Reg. VIII., 1793, sec. xvii.

30. Mocurrerydars holding lands of which they are not the actual proprietors, and whose mocurrery grants have been obtained since the Company's accession to the Dewanny, and never received the sanction of the Supreme Government, are to be dispossessed, and the settlement is to be made with the actual proprietors of the soil under this Regulation. In cases, however, where such mocurrerydars have been in possession of their mocurreries for a term exceeding twelve years, they are to receive during their lives (subject to the pleasure of the Honourable Court of Directors) the difference between the jumma at which they held the lands and that which may be now agreed to by the actual proprietors, added to the neat produce of the authorized sayer, resumed or abolished.—Reg. VIII., 1793, sec. xviii.

31. Istimrardars, however, who have not got possession of their lands to the exclusion, or without the consent of the actual proprietors, as the mocurrerydars mentioned in paragraph 30 are supposed to have done, but hold them of the proprietors on pottah or lease, are to be considered

as a species of pottah talookdars, and the settlement is to be made with them as hereafter specified —Reg VIII, 1793, sec xix

NOTE —See additional rules relating to Mocurrery and Istimrary under the head "LA KHIRAJ"

32 The exceptions to the general order for the conclusion of the decennial settlement with the actual proprietors of the soil, contained in paragraph 15, include the following description of persons females (excepting those whom the Governor-General in Council may judge competent to the management of their own estates), minors, idiots, lunatics, or others rendered incapable of managing their lands by natural defects or infirmities of whatever nature, provided, however, with regard to the whole of these descriptions, that they are not partners in the zemindarries, independent talooks, or other estates held by them, with others of a different description, in which case themselves or guardians are allowed, with their partners, to engage for the settlement of their lands, and elect a joint manager, under the restrictions hereafter mentioned — Reg VIII, 1793, sec xx

33 The lands of disqualified proprietors, coming within the above descriptions, are to be managed for the benefit of the proprietors, by persons appointed to the trust by Government, in the mode prescribed in Regulation X, 1793, which also contains rules for the selection and conduct of such managers, as well as regarding the provision to be made for the support of the proprietors —Reg VIII, 1793, sec xxi

34 A further exception has been made to proprietors in balance to Government, and unable to pay the arrears due from them, in which instances, no settlement is to be concluded with the defaulting proprietors, but their lands are to be let in farm, or held khas, for a period of three years, at the discretion of the collector —Reg. VIII, 1793, sec xxii

35 The determination of the majority of the proprietors present is to be binding on the remainder, in agreeing or disagreeing to the jumma proposed for undivided estates The sharers, however, if dissatisfied, may obtain a division of their lands and a proportionate allotment of the revenue assessed thereon, but at their own expense —Reg VIII, 1793, sec xxvi

36 When a portion of land stands in the joint names of several proprietors, or of one for many, but each proprietor has his separate share in his own possession and management, or in that of an agent for him, the settlement is to be made for each share with the person in possession, and his land is to be held exclusively responsible for the revenue assessed upon it.—Reg VIII, 1793, sec xxvii

NOTE —See additional rules under "COURT OF WARDS" and "JOINT ESTATES"

37 In case of mortgage, if the mortgagee has obtained possession of the land, the settlement is to be made with him, and the proprietor is to be declared entitled to succeed to his engagements on recovering possession, either by the discharge of his obligations or by the decision of a court of justice If the mortgagee has not possession, the settlement is to be made with the proprietor in possession, and the mortgagee is, in like manner, to succeed to the lease, in case of possession being subsequently adjudged to him —Reg VIII, 1793, sec xxviii

38. If, after due inquiries and reference to the Mofussil records, the proprietors of any land cannot be ascertained, the lands are to be held khas pro tempore, and the same mode is to be adopted with regard to absentees In both cases an advertisement is to be issued, requiring the proprietors or absentees to attend within a period of six months, and if they should not be forthcoming at the expiration of that period, a settlement is to be made with a farmer for ten years, allowing a preference to the zemindar nearest in situation, on his agreeing to the jumma and the terms that may be prescribed by the collector —Reg VIII, 1793, sec xxix

39 Where the property in lands is disputed, the settlement is to be made with the proprietor in possession, under an express declaration that he is nevertheless liable to the claims upon the estate, which is to be transferable to any other person to whom the property may be subsequently adjudged —Reg VIII, 1793, sec xxx

40 If a case should occur in which none of the claimants shall have been previously in possession, they are to be allowed to appoint a manager until their claims shall have been determined in the Dewanny Adawlut of the zillah but if they should not agree to a manager, the lands are to be held khas, and the surplus produce, after discharging the revenue, is to be kept in deposit until the right of property shall be adjudged —Reg VIII, 1793, sec xxxi

41 Where disputes exist concerning the boundaries of land, they are to be left to be adjusted in the Dewanny Adawlut, and the settlement is to be made in the mean time for the lands in possession of the disputing parties respectively —Reg VIII, 1793, sec xxxii

42 The special rules for fixing the assessment of the three provinces respectively, adapted to the local circumstances of each, commence with paragraph 74, and the following general rules have been prescribed in addition thereto —Reg VIII, 1793, sec xxxiii

43 The allowances of the cazies and canongoes, heretofore paid by the landholders, as well as any public pensions hitherto paid through the landholders, are to be added to the amount of the jumma, and in future paid by the collectors of the revenue of the several zillahs, on the part of

Government, under the rules and restrictions laid down for their guidance with regard to such payments, in the resolutions passed by the Governor-General in Council on the 10th June, 1791, and re-enacted with modifications by Regulation XXIV., 1793.—Reg. VIII., 1793, sec. xxxiv.

NOTE.—See the head "CANOONGOES."

44. The assessment is to be fixed exclusive and independent of all duties, taxes, and other collections, known under the general denomination of sayer; the collections made in the gunges, hauts, and bazars, situated within the limits of the town of Calcutta excepted, and excepting also the collections confirmed to the proprietors and holders of gunges, bazars, and hauts, by the resolutions passed by the Governor-General in Council on the 11th of June, 1790. Those resolutions, with the subsequent rules enacted for the regulation of the abkary, or tax on intoxicating liquors and drugs, the abolition of the other sayer collections resumed, and the compensations to be made to the proprietors and farmers of estates in consequence of this resumption and abolition are re-enacted, with modifications, by Regulation XXVII., 1793.—Reg. VIII., 1793, sec. xxxv.

45. The assessment is also to be fixed exclusive and independent of all existing la-khiraj lands, whether exempted from the khiraj (or public revenue) with or without due authority.—Reg. VIII., 1793, sec. xxxvi.

46. The above exception, however, is not meant to include the malikanah lands in Behar, or the nankar, khomar, neej-joot, and other private lands of the zemindars and independent talookdars, or other actual proprietors of land, in Bengal and Midnapore, regarding which the following rules have been prescribed.—Reg. VIII., 1793, sec. xxxvii.

47. Where the zemindars, or other actual proprietors of land in Behar have resigned, or have been deprived of the management of their lands, retaining possession of a tithe as malikanah, the latter is to be re-annexed, and the zemindars or other actual proprietors are to be required to engage for the whole of their estates, including the malikanah lands, unless such lands be held as malikanah under grants made or confirmed by the Governor-General in Council, or the supreme authority of the country for the time being, and have been sold or mortgaged, and given in possession to the mortgagee; in which case they are to be exempted from this rule. Grants for malikanah lands not made or confirmed by the supreme authority of the country, are declared invalid by the Regulations passed on the 8th August, 1788. If the collectors, however, should be of opinion that any material injury will be done to any individual by the execution of these orders, they are to report the circumstances to the Board of Revenue.—Reg. VIII., 1793, sec. xxxviii.

48. The nankar, khomar, neej-joot, and other private lands appropriated by the zemindars, independent talookdars, and other actual proprietors of land, in Bengal and Orissa, to the subsistence of themselves and families, shall be also annexed to the malguzary lands, and the ten years' jumma fixed upon the whole under the following modification; that such proprietors as may decline to engage for their lands be allowed the option of retaining possession of their private lands above specified, upon the terms on which they have hitherto possessed them, provided they shall prove, to the satisfaction of the Board of Revenue, that they held them under a similar tenure previous to the 12th August, 1765, the date of the grant of the Dewanny to the Company, and have hitherto been permitted to keep possession of them, whenever their zemindaries or estates have been held khas or let in farm, but not otherwise. In the event of such proof, and of their availing themselves of the option above given to retain possession of their private lands, a deduction, adequate to the neat produce of such lands, is to be made from the amount of the allowance fixed for excluded proprietors.—Reg. VIII., 1793, sec. xxxix.

49. The above consolidation of the malguzary and private lands is also to be made in the talooks continued under the proprietors on whom they have hitherto been dependent; not, however, with a view of increasing the rents of the talookdars, but in order to make the whole of the lands composing their talooks answerable for their proportion of the public assessment allotted thereon.—Reg. VIII., 1793, sec. xl.

50. The chakeran lands, or lands held by public officers and private servants in lieu of wages, are also not meant to be included in the exception contained in paragraph 45. The whole of these lands in each province are to be annexed to the malguzary lands, and declared responsible for the public revenue assessed on the zemindaries, independent talooks, or other estates in which they are included, in common with all other malguzary lands therein.—Reg. VIII., 1793, sec. xli.

51. In the event of any proprietor declining to engage for the settlement of his lands at the jumma proposed to him, the collector is to communicate the objections offered, with his opinion respecting them, to the Board of Revenue. That Board is to determine the proper assessment after making such further inquiries as they may think necessary, and the objecting proprietor is to be required to engage for such assessment without further delay; and in the event of his refusal,

which is to be given in writing, his lands are to be let in farm or held khas, as the Board of Revenue may in each instance think most expedient.—Reg. VIII., 1793, sec. xliii.

52. Proprietors who may finally decline engaging for the jumma proposed to them, and whose lands may consequently be let in farm or held khas, are to receive malikanah (an allowance in consideration of their proprietary rights) at the rate of ten per cent. on the sudder jumma of their lands if let in farm, or at the same rate on the neat collections from their lands if held khas, viz., on the neat amount realized by Government, after defraying the malikanah as well as all other charges. Out of this allowance, however, a provision is to be made for such persons belonging to the families of the proprietors as may be entitled thereto.—Reg. VIII., 1793, sec. xliv.

53. When the lands are let in farm, the farmer is to engage to pay the ten per cent. malikanah to the proprietor of the lands farmed in him, in addition to the jumma payable by him to Government, and to pay this malikanah monthly, according to the kistbundy fixed for the sudder jumma, with an exception to any cases in which it may have been otherwise stipulated with the farmers.—Reg. VIII., 1793, sec. xlv.

NOTE.—Clause First, Section v., Regulation VII., 1822, enacted for the Ceded and Conquered Provinces and Cuttack, rescinded all "provisions in the existing Regulations regarding the allowance to be made to zemindars and other malguzars who may be excluded from the management of mehals owned or claimed by them, whether as malikanah or nankar." This enactment was extended to all the other provinces by Section ii., Regulation IX., 1825, and declared to apply to "all lands not included within the limits of estates for which a permanent settlement has been concluded, and to all estates held khas;" but Section xl., Regulation IX., 1833, declares the new provisions to be only of prospective effect.

54. The collectors are to enforce payment of the malikanah specified in the preceding paragraph from the farmers, by the same process as is prescribed for enforcing payment of arrears of the public revenue, if they shall at any time neglect to pay the instalment due from them; and Government are to be considered as guarantees for the full payment of the fixed allowance to the several excluded proprietors.—Reg. VIII., 1793, sec. xlvi.

55. In the event of the lands being held khas, on the refusal of the proprietor to engage for the settlement of them, the malikanah, calculated as above specified, is to be paid monthly from the treasuries of the collectors, and it shall be paid entirely in money, instead of half in cash and half in paper, as formerly.—Reg. VIII., 1793, sec. xlvii.

56. The settlement having been concluded with the zemindars, independent talookdars, and other actual proprietors of land, they are to enter into engagements with the several dependent talookdars continued under them respectively, and consequently paying revenue through them for the same period as the term of their own engagements with Government, provided the talookdars will agree to such revenue, progressive or otherwise, as the zemindar or other actual proprietor of land, may be entitled to demand from them; and the several zemindars, or actual proprietors of land to whom this rule may be applicable, are required to deliver to the collector, within three months after the conclusion of the settlement with them, a record of the engagements entered into between them and the talookdars dependent on them, specifying their names and talooks, and the jumma payable by each.—Reg. VIII., 1793, sec. xlviii.

57. It is to be understood, however, that istimrardars (mocurrerydars) of the nature of those described in paragraph 30, who have held their land at a fixed rent for more than twelve years, are not liable to be assessed with any increase, either by the officers of Government or by the zemindar or other actual proprietor of land, should he engage for his own lands. With regard to such istimrardars, also, as have not held their lands at a fixed rent for so long a period, if the zemindar, or other actual proprietor of land, has bound himself by the deed which he may have executed not to lay any increase upon them, he shall not be allowed to infringe the conditions of the deed for his own benefit, but must confine his demands to the rent he may have voluntarily agreed to receive.—Reg. VIII., 1793, sec. xlix.

58. This last restriction imposed on the zemindar, or other actual proprietor of land, in the preceding paragraph, is not to be considered to preclude the officer of Government or farmer, in the event of the zemindary being held khas or let in farm, from assessing such istimrardars according to the general rate of the district.—Reg. VIII., 1793, sec. l.

59. The following rules are prescribed, to prevent undue exactions from the dependent talookdars.

*First.* No zemindar, or other actual proprietor of land, shall demand an increase from the talookdars dependent on him, although he should himself be subject to the payment of an increase of jumma to Government; except upon proof that he is entitled so to do, either by the special custom of the district, or by the conditions under which the talookdar holds his tenure: or that the talookdar, by receiving abatements from his jumma, has subjected himself to the payment of the increase demanded, and that the lands are capable of affording it.

*Second.* If in any instance it be proved that a zemindar, or other actual proprietor of land, exacts more from a talookdar than he has a right to, the court shall adjudge him to pay a penalty of double the amount of such exaction, with all costs of suit, to the party injured.—Reg. VIII., 1793, sec. li.

60. The zemindar, or other actual proprietor of land, is to let the remaining lands of his zemindary or estate, under the prescribed restrictions, in whatever manner he may think proper; but every engagement contracted with under-farmers shall be specific as to the amount and conditions of it; and all sums received by any actual proprietor of land or any farmer of land, of whatever description, over and above what is specified in the engagements of the persons paying the same, shall be considered as extorted, and be repaid with a penalty of double the amount. The restrictions prescribed and referred to in this paragraph are the following:—Reg. VIII., 1793, sec. lii.

61. No person contracting with a zemindar, independent talookdar, or other actual proprietor, or employed by him in the management of the collections, shall be authorized to take charge of the lands or collections without an amilnamah, or written commission, signed by such zemindar, independent talookdar, or other actual proprietor.—Reg. VIII., 1793, sec. liii.

62. The impositions upon the ryots, under the denomination of abwab, mahtoot, and other appellations, from their number and uncertainty having become intricate to adjust, and a source of oppression to the ryots, all proprietors of land and dependent talookdars shall revise the same, in concert with the ryots, and consolidate the whole with the assul into one specific sum. In large zemindaries or estates, the proprietors are to commence this simplification of the rents of their ryots in the pergunnahs where the impositions are most numerous, and to proceed in it gradually till completed; but so that it be effected for the whole of their lands by the end of the Bengal year 1198 in the Bengal districts, and of the Fussily and Willaity year 1198 in the Behar and Orissa districts, these being the periods fixed for the delivery of pottahs, as hereafter specified.—Reg. VIII., 1793, sec. liv.

NOTE.—It is enacted by Section iv., Regulation IV., 1794, that Sections liv., lvi., lvii., lviii., lix., and lxi., shall not have effect in the Behar portion of zillah Ramgurh.

63. No actual proprietor of land, or dependent talookdar or farmer of land, of whatever description, shall impose any new abwab or mahtoot upon the ryots, under any pretence whatever. Every exaction of this nature shall be punished by a penalty equal to three times the amount imposed; and if, at any future period, it be discovered that new abwab or mahtoot have been imposed, the person imposing the same shall be liable to this penalty for the entire period of such impositions.—Reg. VIII., 1793, sec. lv.

64. It is expected that, in time, the proprietors of land, dependent talookdars and farmers of land, and the ryots, will find it for their mutual advantage to enter into agreements, in every instance, for a specific sum, for a certain quantity of land, leaving it to the option of the latter to cultivate whatever species of produce may appear to them likely to yield the largest profit. Where, however, it is the established custom to vary the pottah for lands according to the articles produced thereon, and while the actual proprietors of land, dependent talookdars or farmers of land, and ryots in such places, shall prefer an adherence to this custom, the engagements entered into between them are to specify the quantity of land, species of produce, rate of rent, and amount thereof, with the term of the lease, and a stipulation that, in the event of the species of produce being changed, a new engagement shall be executed for the remaining term of the first lease, or for a longer period if agreed on; and in the event of any new species being cultivated, a new engagement, with the like specification and clause, is to be executed accordingly.—Reg. VIII., 1793, sec. lvi.

65. *First.* The rents to be paid by the ryots, by whatever rule or custom they may be regulated, shall be specifically stated in the pottah, which, in every possible case, shall contain the exact sum to be paid by them.

*Second.* In cases where the rate only can be specified, such as where the rents are adjusted upon a measurement of the lands after cultivation or on a survey of the crop, or where they are made payable in kind, the rate and terms of payment and proportion of the crop to be delivered, with every condition, shall be clearly specified.—Reg. VIII., 1793, sec. lvii.

66. A ryot, when his rent has been ascertained and settled, may demand a pottah from the actual proprietor of land, dependent talookdar or farmer, of whom he holds his lands, or from the person acting for him: and any refusal to deliver the pottahs, upon being proved in the Court of Dewanny Adawlut of the zillah, shall be punished by the Court by a fine proportioned to the expense and trouble of the ryot in consequence of such refusal. Actual proprietors of land, dependent talookdars, and farmers, are also required to cause a pottah for the adjusted rent to be prepared and tendered to the ryot, either granting the same themselves, or entrusting their agents to grant the same. No farmer, however, without special permission from the proprietor of the lands, or (if the lands form part of a dependent talook) the dependent talookdar, shall grant a pottah extending beyond the period of his own lease; nor shall any agent grant a pottah without authority from the proprietor or dependent talookdar or the manager of disqualified proprietors.—Reg. VIII., 1793, sec. lix.

67. *First.* All leases to under-farmers and ryots made previous to the conclusion of the settle-

ment, and not contrary to any Regulation, are to remain in force until the period of their expiration, unless proved to have been obtained by collusion or from persons not authorized to grant them.

*Second.* No actual proprietor of land, or farmer, or persons acting under their authority, shall cancel the pottahs of the khood kasht ryots except upon proof that they have been obtained by collusion; or that the rents paid by them within the last three years have been reduced below the rate of the nirkbundy of the pergunnah: or that they have obtained collusive deductions; or upon a general measurement of the pergunnah for the purpose of equalizing and correcting the assessment. The rule contained in this clause is not to be considered applicable to Behar.—Reg. VIII., 1793, sec. lx.

68. The proprietors of estates, and the dependent talookdars and farmers of land in Bengal, are allowed until the end of the Bengal year 1198, and those in Behar and Orissa until the end of the Fussily and Willaity year 1198, to prepare and deliver pottahs to the ryots, in conformity to the preceding rules, but after the expiration of the year 1198 no engagements for rent contrary to those ordered are to be held valid; and in the event of any claims being preferred by proprietors of estates, or dependent talookdars, farmers, or ryots, on engagements wherein the consolidation of the assul, abwab, &c., shall appear not to have been made, they are to be nonsuited with costs. —Reg. VIII., 1793, sec. lxi.

NOTE.—The rules relating to forms of pottahs have been rescinded by Section iii., Regulation V., 1812. See the additional rules relating to Pottahs under the head "TALOOKS, UNDER TENURES, POTTAHS, and ENGAGEMENTS."

69. *First.* Every proprietor of land, dependent talookdar or farmer of land, of whatever description, and their agents of every gradation, receiving rents or revenues from dependent talookdars, under-farmers, ryots, or others, are to give receipts for all sums received by them, and a receipt in full on the complete discharge of every obligation. Any person to whom a receipt may be refused, on his establishing the same in the Dewanny Adawlut of the zillah, shall be entitled to damages from the party who received his rent or revenue and refused the receipt, equal to double the amount paid by him.

*Second.* In case any village or lands should be affected by inundation or other calamity, causing the ryots to desert, it shall not be lawful for any proprietor of land, dependent talookdar or farmer of land, of whatever description, or their agents, to demand the rents of the absconded ryots from those who may remain.—Reg. VIII., 1793, sec. lxiii.

70. The proprietors of land, dependent talookdars and farmers of land, of every description, are to adjust the instalments of the rents receivable by them from their under-renters and ryots, according to the time of reaping and selling the produce, and they shall be liable to be sued for damages for not conforming to this rule.—Reg. VIII., 1793, sec. lxiv.

71. No proprietor of land or dependent talookdar shall contract any engagement with any under-farmer, or authorize any act contrary to the letter and meaning of this Regulation.—Reg. VIII., 1793, sec. lxv.

72. Zemindars, independent talookdars, and other actual proprietors of land, dependent talookdars, farmers of land holding farms immediately of Government, and all persons farming lands of the above-mentioned descriptions of landholders and farmers of land, and their respective officers, agents, servants, dependents, and ryots, are prohibited from taking cognizance of, or interfering in matters or causes coming within the jurisdiction of the courts of civil judicature, or the Sessions Courts, or the magistrates, under pain of being liable to the payment of such fine to Government, and damages to the party injured, as the court of judicature in which they may be prosecuted for the act may deem it proper to impose and award.—Reg. VIII., 1793, sec. lxvi.

73. *First.* Such of the restrictions on actual proprietors of land and farmers who hold their farms immediately of Government, as are set forth in their respective cabooleats and are not repealed by any Regulation printed and published in the manner directed in Regulation XLI., 1793, are to be considered in full force.

*Second.* Actual proprietors of land are to be considered to have been entitled, between the period of the conclusion of the settlement with them and the 22nd March, 1793, the date of the proclamation declaring the decennial settlement perpetual inserted in Regulation I., 1793, to borrow money on the credit of their lands, and to sell or otherwise dispose of them, subject to the rules and restrictions existing when the transactions took place; and all bonâ fide transfers of zemindaries, or other estates or talooks, made by any actual proprietor of land or dependent talookdar, subsequent to the 8th June, 1787, are to be deemed valid, although they shall have taken place without the sanction of the Board of Revenue required to be obtained by the Regulations passed on that date; and all actual proprietors of land and dependent talookdars are to be held to have been at liberty, from the 29th October, 1790, to borrow money without the sanction of the Board of Revenue.

*Third.* In the amended code of the rules for the decennial settlement, passed on the 23rd November, 1791, it was declared, that in all instances in which ryots should give security for the performance of their engagements, and such security should be accepted by the landholders or

farmers, it should not be lawful for the two latter to attach the crop of the former, unless the security should have absconded and other good security not have been tendered in consequence. This rule was annulled by the Regulations passed by the Governor-General in Council on the 20th July, 1792, which have been re-enacted, with alterations and amendments, by Regulation XVII., 1793.

*Fourth.* In the original rules for the decennial settlement, the landholders were declared responsible for the peace of their districts, and bound to act agreeably to such Regulations on that head as might afterwards be enacted. This rule was superseded by the Regulations passed by the Governor-General in Council on the 7th December, 1792, which have been re-enacted, with alterations and amendments, by Regulation XXII., 1793.

*Fifth.* In the original rules above mentioned it was also directed, that if, in any instance, the Regulations should appear inapplicable to the circumstances of any particular district, the collector should attend to the spirit of them, and carry them into execution in such mode as circumstances might allow, reporting any alterations or modifications which he might deem necessary. This rule is to be considered still in force in forming any settlements which remain to be concluded, but it is not to be construed to empower the collector to exercise any judicial authority.

*Sixth.* It was further ordered in the original rules before mentioned, that if, from want of sufficient materials or information, or on account of other impediments, the collectors should be unable to complete the settlement of all the pergunnahs under their charge, agreeably to the prescribed plan, within the year 1197 of the eras current in the three provinces respectively, the settlement was to be made for one year only, according to the principles laid down in the Regulations of the 25th April, 1788, for the settlement of 1196, the year preceding the first year of the decennial settlement.—Reg. VIII., 1793, sec. lxvii.

## BENGAL SPECIAL ORDERS.

74. In fixing the amount of the assessment, the jumma of the preceding year, compared with the accounts and information supplied by the collectors, and the recommendation of the Board of Revenue founded thereon, is to be the standard, under the following considerations:—Reg. VIII. 1793, sec. lxviii.

75. If the Board of Revenue shall have reason to believe that the accounts furnished of any particular district or districts are materially defective, that more accurate information of their actual produce is necessary, and that it can be procured without having recourse to hustaboods and measurements, which have been prohibited, the decennial settlement of such districts is to be postponed.—Reg. VIII., 1793, sec. lxix.

76. No abatement from the jumma of the preceding year is to be allowed, without the special sanction of the Governor-General in Council.—Reg. VIII., 1793, sec. lxx.

77. Any occasional diminution of the jumma which it may be necessary to allow on account of casualties of season, is to be restored by a russud, or progressive increase; but no russud shall be established to extend beyond the third year of the settlement, except in the separated talooks, and other petty mehals, in which the Board of Revenue may allow a further extension of the russud, if it shall appear to them expedient.—Reg. VIII., 1793, sec. lxxi.

78. The settlement is to be made, as far as possible, in one neat sum, free from any charges of moshaira, zemindary amlah, poolbundy, cutcherry charges, or others of a similar nature; it being intended, that all charges incidental to the receipt of the rents of the lands, and independent of the allowances of the officers of Government and expenses attending the collection of the public revenue, shall be defrayed by the proprietors from the produce of their lands.—Reg. VIII., 1793, sec. lxxii.

79. In every possible case, all separate allowances to the families and connections of the proprietors of land are to be abolished, and the provision for their maintenance is to devolve upon the proprietors.—Reg. VIII., 1793, sec. lxxiii.

80. With respect to any of the existing established zemindary charges, such as pensions, charitable or other allowances, which it may be thought proper to continue, they shall be paid by the collectors, and the proprietors and farmers of land are to have no concern in them; unless, for special reasons of convenience, it should be deemed more expedient, in any instance, to intrust the proprietors or farmers of land with the disbursement of them.—Reg. VIII, 1793, sec. lxxiv.

81. The standard for fixing the future assessment, mentioned in paragraph 74, viz., the jumma of the preceding year compared with the accounts and information supplied by the collectors, and the recommendation of the Board of Revenue thereon, cannot be applied, however, to the separated talooks which have not heretofore paid any jumma immediately to Government; nor is it to be understood to be applicable to any instances where the actual produce of the lands may have been ascertained. In all such instances, and in all separated talooks, the jumma of which shall clearly

appear to have been fixed below the general rate of assessment of the pergunnah wherein they are situated, the assessment is to be regulated so as to leave to the proprietors a provision for themselves and families equal to about ten per cent. on the amount of their contributions to Government, including the produce of their nankar, or other private lands, to be annexed to the malguzary lands, as directed in paragraph 48; and the talookdars, whose jumma may be raised by virtue of this rule, are to be informed that they may sue in the Dewanny Adawlut the proprietor who fixed their jumma, if they shall think themselves aggrieved by their payments being enhanced contrary to the terms of a grant which the zemindars had no authority to bestow on them.—Reg. VIII., 1793, sec. lxxv.

82. From this rule, however, are to be excepted all separated talooks, as well as all lands heretofore paying revenue immediately to Government, which may have been held at a fixed jumma during the last twelve years; and the decennial settlement is to be concluded with the proprietors of such talooks and lands at the jumma hitherto paid by them, subject to such deduction as may be found equitable on account of the sayer, resumed or abolished.—Reg. VIII., 1793, sec. lxxvi.

83. The estimated provision for the landholders and their families where the assessment may be fixed on the ascertained produce of their lands, is stated generally at ten per cent. on the jumma payable by them; but if, owing to any peculiar circumstances, a larger provision should be deemed necessary, particularly in zemindaries or independent talooks yielding a small revenue, the Governor-General in Council will take the same into consideration.—Reg. VIII., 1793, sec. lxxvii.

84. In carrying into execution the principles contained in paragraph 74, it will be necessary to consider whether the several charges noticed have been heretofore defrayed by the actual proprietors of land, independent of their assessment, or by Government, with a view to determine whether a deduction is to be allowed from their future jumma to provide for them, or otherwise.—Reg. VIII., 1793, sec. lxxviii.

85. In cases where the charges alluded to in the preceding paragraph have been defrayed by the actual proprietors of land, independently of their jumma to Government, they will not of course be entitled to any deduction on account of them; but where they have been heretofore paid by Government, the jumma must suffer a proportionate diminution, unless there be sufficient funds for the discharge of them in addition to the former jumma. With respect to the moshaira, in particular, it is to be observed, that where the lands have been let in farm, but are now left with the proprietor, the latter may be presumed to receive an equivalent for his former allowance in the profits of the farmer, which will revert to him.—Reg. VIII., 1793, sec. lxxix.

86. Where the jumma may be fixed on the ascertained gross assets, the mofussil charges of every denomination, whether dehatee, pergunnatee, or others, must further be considered in calculating the proper assessment; and the collectors are to transmit a statement of the estimated gross assets, with an adjustment of the revenue thereto, conformably to the above rules.—Reg. VIII., 1793, sec. lxxx.

87. Every circumstance influencing the regulation of the jumma is to be minutely recorded, to prevent any claims hereafter on the part of the proprietors or farmers for lowering the amount. —Reg. VIII., 1793, sec. lxxxi.

## BEHAR SPECIAL ORDERS.

88. The jumma which each actual proprietor of land is to pay is to be fixed by the collector on fair and equitable principles with the reserve of the approbation of the Board of Revenue, to whom he is to report the grounds of his decision on the jumma. If he should deem it eligible, he may call upon the actual proprietors of land to deliver in proposals for the settlement of their lands; but his judgment is, in the first instance, to determine the amount of the assessment.—Reg. VIII., 1793, sec. lxxxii.

89. The collectors, in fixing the jumma, are to attend to the modes which have hitherto prevailed in ascertaining the assets, and fixing the jumma between the proprietors of small estates and the principal proprietor or farmer, adopting, in all practicable instances, the following general rule: that the average product of the land in common years (assuming three or four for the calculation) be taken as the basis of the settlement, and from this deductions to be made equal to the malikanah and khurcha, leaving the remainder the jumma of Government. The Governor-General in Council relies on the accuracy of the collectors in the application of this rule; and they are authorized, in the event of great uncertainty, to measure the lands. This uncertainty, however, is to be reported to the Board of Revenue; and the measurement is not to be undertaken, but on the clearest grounds of the necessity of it.—Reg. VIII., 1793, sec. lxxxiii.

90. From the above rules are to be excepted all lands heretofore paying revenue immediately

to Government, which may have been held at a fixed jumma during the last twelve years; and the decennial settlement is to be concluded with the actual proprietors of such lands at the jumma hitherto paid by them, subject to such deduction as may be found equitable on account of the sayer, resumed or abolished.—Reg. VIII., 1793, sec. lxxxiv.

91. No abatement from the sudder jumma of 1196 is to be confirmed without the special sanction of the Governor-General in Council.—Reg. VIII., 1793, sec. lxxxv.

92. The sudder kistbundy is to be so regulated as to afford the proprietors of land all possible convenience in the discharge of their revenue, with due regard to the security of Government.—Reg. VIII., 1793, sec. lxxxvi.

93. The collectors are to proceed with due caution and information in the execution of these fundamental resolutions; and it is expected they will be able, when called upon, to furnish clear and satisfactory explanations of their proceedings, particularly on the amount of the assessment.—Reg. VIII., 1793, sec. lxxxvii.

## MIDNAPORE SPECIAL ORDERS.

94. The collector is authorized to make alterations in the jumma of 1196, when, from good information and his own experience, it may appear necessary to render the jumma of the respective zemindars, independent talookdars, and other actual proprietors of land, more equal and proportioned to the resources of their lands.—Reg. VIII., 1793, sec. lxxxviii.

95. In order to ascertain the necessity of granting any remissions upon the jumma of 1196, the collector is to examine the wassilaut and akhrajaut, or the gross receipts and expenditures, comparing the one with the other, and checking the latter when exorbitant; and he is particularly to ascertain, to his full satisfaction, those instances in which the zemindars, independent talookdars, or other actual proprietors of land, have been under the necessity of selling their lands and effects to make good the amount of their stipulations.—Reg. VIII., 1793, sec. lxxxix.

96. To obviate and correct, as far as possible, any unnecessary or studied delays in the zemindars and talookdars, in giving the accounts required, he is authorized to impose a moderate fine upon such of them as may be guilty of delays or evasions, reporting the cases as they may occur to the Board of Revenue.—Reg. VIII., 1793, sec. xc.

97. In cases of great doubt and uncertainty, the collector is authorized to measure the lands, or make such mofussil investigations into the produce of them as he may deem necessary for ascertaining the truth.—Reg. VIII., 1793, sec. xci.

98. The collector is authorized, upon the grounds of the information contained in the mode above pointed out, to grant remissions upon the jumma of 1196, the Governor-General in Council expecting that no remission will be allowed but upon satisfactory explanations of the necessity of it; but the settlement is to be made under an express reserve and limitation, that it be approved and confirmed by the Governor-General in Council, and a declaration to this effect is to be made to the proprietors.—Reg. VIII., 1793, sec. xcii.

99. The estimated allowance for casual deficiency upon the gross jumma is to be reduced from Rupees 1,30,477 to the sum of Rupees 50,546, which is three per cent. upon the gross jumma of Rupees 16,84,868. 5 a. 1 p., after deducting from it the article of batta.—Reg. VIII., 1793, sec. xciii.

100. The allowance for religious expenditures being enormous, shall also be reduced. The Governor-General in Council does not mean to prescribe the exact amount of the reduction, but conceives that the sum now allowed will admit of a diminution of at least 35,000 rupees. The collector, in fixing the assessment, is to regulate the estimate of the amount of it by this consideration. These charges being highest in the pergunnahs of Cossejurah, Shahpore, Midnapore, and Mynachoura, the reduction ought to be greatest in them.—Reg. VIII., 1793, sec. xciv.

101. The charges of purchasing provisions for the battalion when in the town of Midnapore, and of firewood and grass when travelling, if such have been actually incurred by the proprietors of land, are to be discontinued, and no such charge shall be incurred by them in future.—Reg. VIII., 1793, sec. xcv.

102. The settlement is to be made, as far as possible, in one neat sum, free from any charges of moshaira, zemindary amlah, poolbundy, cutcherry, or other charges of a similar nature; it being intended that all charges incidental to the receipt of the rents of the lands, independent of the allowances of the officers of Government and expenses attending the collection of the public revenue, shall be defrayed by the proprietors from the produce of their lands.—Reg. VIII., 1793, sec. xcvi.

103. With respect to any of the existing established zemindary charges, such as pensions, charitable allowances, or others, which it may be thought proper to continue, they are to be paid by the collectors, and the proprietors are to have no concern in them; unless, for special reasons

of convenience, it should be deemed more expedient, in any instance, to intrust the landholders with the disbursement of them.—Reg. VIII., 1793, sec. xcvii.

104. Any occasional diminution of the jumma, which it may be necessary to allow on account of casualties of season, is to be restored by a russud or progressive increase; but no russud shall be established to extend beyond the third year of the settlement, except in the separated talooks and other petty mehals, in which the Board of Revenue may allow a further extension of the russud, if it shall appear to them expedient.—Reg. VIII., 1793, sec. xcviii.

105. Every circumstance influencing the regulation of the jumma must be minutely recorded, to prevent any claims hereafter, on the part of the proprietors, for lowering the amount of it.—Reg. VIII., 1793, sec. xcix.

## SALT DISTRICTS' SPECIAL ORDERS.

106. The rules contained in the preceding sections of this Regulation, as far as they relate to the term of the settlement and the formation of it with the actual proprietors of land, are not to be considered as applicable to such of the salt districts as have been held khas in the past years, to facilitate the conduct of the business of the salt manufacture. These are to continue khas as heretofore, and the assessment of them is to be from year to year as hitherto, until the Governor-General in Council shall think it proper to pass a Regulation to the contrary.—Reg. VIII., 1793, sec. c.

107. The collectors of the revenue in the districts alluded to in the preceding paragraph have been ordered to prepare and deliver pottahs to the ryots conformably to the rules prescribed in this Regulation, and within the period limited for the delivery of them in Midnapore.—Reg. VIII., 1793, sec. ci.

# BENARES.

## PERMANENT SETTLEMENT.

108. The Governor-General in Council having determined, with the concurrence of the Rajah of Benares, to introduce into that province, as far as local circumstances will admit, the same system of interior administration as has been established in the provinces of Bengal, Behar, and Orissa, and the limitation of the annual revenue payable from the lands forming an essential part of that system, as stated in the preamble to Regulation II., 1793, the following rules have been enacted.—Reg. I., 1795, sec. i.

109. On the expiration of the year 1195, Fussily, the Governor-General in Council instructed the resident to make the settlement of the revenue for the ensuing year, 1196, under his own immediate control. The resident accordingly completed the settlement, by granting leases for the term of one year to certain aumils, and for five years to others, by which they bound themselves to pay a specific jumma or assessment. But the Governor-General in Council, being desirous of extending to the province of Benares from the beginning of the year 1197, as far as circumstances might admit, the principles of the decennial settlement directed to be formed in the provinces of Bengal, Behar, and Orissa, those principles were accordingly introduced in the districts of which the aumils, in the preceding year, had obtained leases for five years, by their consenting to the resident's issuing pottahs or leases, under their and his joint seals and signatures, for the remaining four years of the term of their own engagements, to all the talookdars, and to the village zemindars and farmers, by which it was stipulated that they should pay a certain fixed assessment, the amount of which should be received by the aumils, and accounted for by them to Government; and in the districts, the leases of which had been granted for one year only, and had consequently expired, by the issuing of pottahs to the talookdars, and the village zemindars and farmers, under the signature of the resident and the rajah, fixing the revenue to be in like manner paid by them through the aumils for the term of ten years. The particulars of these arrangements were detailed in the reports on the said settlements for one year, and for four and ten years, made to the Governor-General in Council, by the resident, on the 26th of April, the 30th of November, and the 26th of December, 1789, and the 25th November, 1790, and in the papers and accounts therein referred to; and on a consideration of them, the Governor-General in Council, on the 11th of February, 1791, approved of the said quartennial and decennial settlements with the talookdars, village zemindars and farmers, and ordered "that the four years' pottahs be confirmed for the ensuing six, so as to reduce the whole to a ten years' settlement, and that assurances be given to the pottah-holders, that as long as they continue to pay their revenue stipulated in the last year of

the increase, as specified in their several pottahs, they shall not be liable to any further demand during their lives." This order has been repeatedly notified to the parties whom it concerned, who, with the exception of the pottah-holders in a few pergunnahs, and of certain individual zemindars and farmers in others, have, by the performance of the conditions required of them, become entitled to hold their lands at a fixed assessment during their lives, as specified in the said order. The Governor-General in Council has now further resolved, that the revenue stipulated to be paid on account of the lands included in the quartennial and decennial pottahs, the conditions of which have been performed, whether held by zemindars or farmers, shall be fixed in perpetuity, and that the person or persons now holding, or who may hereafter become entitled under the Regulations to succeed to such pottahs, shall not be liable to any additional payment beyond the highest annual jumma specified in such pottahs. That this resolution may be rendered more immediately and generally known, the resident is to notify it to the parties interested by a proclamation to the following effect.—Reg. I. 1795, sec. ii.

110. *First.* "On the 11th February, 1791, the Governor-General in Council signified his approbation and confirmation of the quartennial and decennial settlements, formed in the Fussily year 1197 (1789-90), throughout the four sircars comprised in the province of Benares, and directed in respect to the pottahs for four years, that the amount of the jumma payable thereby in the fourth year should be continued for the next six years, so as to place the quartennial pottahs on the same footing as the pottahs granted for ten years. The Governor-General in Council now declares that the jumma payable according to the quartennial and decennial pottahs shall remain fixed for ever, so that no sum exceeding the amount specified as the highest annual jumma payable according to the said pottahs shall ever be required of those pottahdars, or holders of pottahs, who have hitherto paid up their revenue and observed all the other conditions specified in their pottahs, nor of those who may hereafter become entitled to hold or succeed to such pottahs, so long as they shall continue to discharge the amount, and to perform the conditions therein stipulated.

*Second.* "The above declarations are made with the following reservations.

*Third.* "The holders of the pottahs are to be considered as bound to conform to all regulations regarding them, the preservation of the rights of the putteedars, or sharers in estates, the ryots, or the administration of justice, which have been or may be passed by the Governor-General in Council, and printed and published in the manner prescribed in Regulation XLI., 1793.

*Fourth.* "The succession to zemindaries is to take place according to the established laws, rules, and customs of the country, as provided for in the Regulations passed, or which may be enacted, for the province of Benares, and printed and published in the manner prescribed in Regulation XLI., 1793.

*Fifth.* "In the event of the death of a farmer holding a pottah for lands, the zemindar of which was dispossessed previous to the 1st July, 1775, the date of the cession of the province of Benares to the Company, or of the pottah of any such farmer becoming otherwise void, it has been determined, with the concurrence of the Rajah of Benares, that such zemindar, or his heir or heirs, shall be restored to the estate, provided he or they shall agree to pay the fixed jumma assessed on the lands agreeably to such pottah, and to conform to all regulations for the collection of the revenue, the administration of justice, or other matters, which may be printed and published in the manner prescribed in Regulation XLI., 1793. In such case, the estate shall be made over to him or them, in preference to its being leased to a new farmer, or to the heir of the last pottah-holder.

*Sixth.* "According to the well-known rule prevailing in the province, those zemindars who have had possession of their estates since the 1st of July, 1775, but who were nevertheless excluded at the forming of the permanent settlement, may recover possession of their estates from the farmers who may hold pottahs for, and be in the actual management of them, by proving their intermediate possession in the Court of Dewanny Adawlut. The Courts of Dewanny Adawlut are accordingly to decree the restoration of any such zemindar so claiming, on proof being made by him of such intermediate possession; but every such decree is to provide for such zemindar's previously indemnifying the farmer for the loss which he may prove, to the satisfaction of the Court, to have sustained in consequence of his having held the lands under the pottah of Government, and the Court is accordingly to inquire into and decide upon such loss, and to cause the amount to be made good to the farmer, before the zemindar is reinstated."—Reg. I., 1795, sec. iii.

111. The rules contained in Regulation XLI., 1793, entitled, "A Regulation for forming into a regular code, all Regulations that may be enacted for the internal government of the British territories in Bengal," are hereby declared to extend to the province of Benares; and that no doubt may be entertained what Regulations so enacted may be meant to extend to that province, or otherwise, it is hereby declared, that no such Regulation that has been or may be passed previous to, on, or after this date, shall be considered to extend, either wholly or in part, to the province of Benares, unless the title to the Regulation, or the Regulation itself, or some other Regulation, shall declare the whole or a part of it to extend to that province.—Reg. I., 1795, sec. iv.

## RULES OF THE SETTLEMENTS PRECEDING THE PERMANENT SETTLEMENT.

112. Previous to the year 1781, the resident stationed at Benares on the part of the British Government was not empowered to interfere in any respect in the settlement or collection of the revenue of the zemindarry. On the accession of Rajah Mahipnarain, in 1781, the administration of the revenue was committed to the charge of naibs acting on his behalf, and subject in some degree to the control of the resident. In the year 1787, the resident himself was intrusted with the superintendence of the formation of the settlement and the collection of the revenue. The successive measures that have been adopted from the beginning of the Fussily year 1195, which commenced in September, 1787, regarding the settlement and collection of the revenue of the province, are hereby enacted into a Regulation.—Reg. II., 1795, sec. i.

113. At the recommendation of the resident, a new form of cabooleat was taken by the rajah from the aumils (then the farmers of the revenue), on the conclusion of the settlement which he entered into with them for the Fussily year 1195. In this cabooleat it was stipulated, that the aumils should pay to the rajah the jumma for which they had severally engaged, according to the tushkhees or account particulars of the revenue funds in their respective aumildarries, including nuzeranna, and the Government's moiety of the bhuray, and russoom khazanah, and exclusive of the articles of mujray, maafy mamooly, and the kharij jumma, which consisted principally of lands exempted from the payment of revenue, and partly of pensions, and charitable and other allowances, charged on the public revenue. This jumma was to be paid agreeably to the kistbundy or instalments for regulating the periods of the payments of the aumils, which then generally extended from the beginning to the end of the year; and the aumils further agreed, that on proof of their making any undue exactions beyond the tushkhees or funds assigned to them, they should be liable to pay a fine of three times the amount to Government.—Reg. II., 1795, sec. ii.

114. *First.* With a view to provide against sundry abuses and irregularities in the system of realizing the public revenue, the resident, on the 25th June, 1788, desired the rajah to cause a new form of pottah to be established and issued to the ryots, specifying the denomination and length of the rod by which the betay lands (lands of the produce of which Government, or the person having the collection of its dues, is entitled to a certain proportion, the value of which, estimated at the current market price, is paid in money by the cultivator of the land) were to be measured, in case such measurement should be demanded by either party, on the arrival of the period when the produce of the crops of the ryots is estimated by the mode termed kunkoot; and as in many places, where the revenue was thus paid on such estimations of the harvests, disputes occurred between the ryot and the aumil, as to the value in money at which the crop was to be appreciated, it was provided that twice in the year, or for each harvest, the valuation of the crops should be settled for each pergunnah separately, by the authority of Government, and a notification thereof issued; the rates to be paid for the grain or crops in the khereef to be fixed in the month of Maug, and those of the rebby-harvest in Jeyte, according to the actual market prices then current in the several parts and divisions of the country. The above mode of estimating the produce, and appreciating the value of the crops, is accordingly in future to constitute the rule for ascertaining the collections to be made from the betay lands, and for adjusting the aggregate amount of them for the whole year, the kists due on each harvest being immediately paid on account, according to the usual proportion of the mofussil kistbundy or instalments. The practice of agore betay (taking the Government's half of the produce in kind after the crop has been reaped or gathered) was at the same time forbidden, as affording to individuals the means of defrauding Government of its due proportion of the produce; and in the form of the pottahs for the betay lands it was directed to be specified, whether the value of the produce was to be divided between the aumil and the ryot in equal proportions, or with such zabetaneh, or established difference, as the custom of each pergunnah authorized.

*Second.* In the pottahs for nukdy land (land paying a specific money rent per begah), the name and length of the null or measuring-rod was directed to be mentioned; and as, since the year 1781, sundry new articles of abwaub and charges had been introduced, the pottah provided that all new abwaub and charges introduced since the Fussily year 1187 should, from the year 1196 of the same era, be considered as prohibited and relinquished, and that the mal or original rent, and abwaub or cesses, which existed in that year, viz., 1187, Fussily, being incorporated with the mal, so as to form only one aggregate sum, this sum or specific rate should constitute what the ryots or cultivators of the mukdy lands were to pay per begah.

*Third.* The rent of waste land intended to be brought into cultivation was directed to be fixed at such rates as the ryots might willingly agree to pay, and without abwaub.—Reg. II., 1795, sec. iii.

115. On the 1st of July, 1788, the canongoes were apprized of the above rules, and of the rajah having deputed aumeens for the purpose of carrying them into effect; and they were further informed that they were to co-operate in fixing the jumma of the nukdy lands, and ascertaining the proportion and mode of assessment on the betay lands; and that wherever, during the administration of Rajah Cheyte Sing, the nul or measuring-rod was more or less than the rod of three dirrahs ilahee (which rod alone was ordered to be used for the future), or wherever a begah consisted of a greater or less extent of land than twenty biswahs in the Fussily year 1187, they were to adjust, in proportion to these varieties in the rod and in the extent of the begah, the rates and modes of the nukdy and betay revenue in one sum, agreeably, and as nearly as might be possible equivalent, to the assul and abwaub, or zabetaneh of that year, and to fix the rates in the pottah accordingly. Pottahs were in consequence issued by the rajah's aumeens, comprehending the above specifications, but not so generally or accurately as fully or effectually to accomplish the object of their deputation; and in the rates inserted in these pottahs, they likewise omitted to make allowance for the difference between the old and new measuring-rods and begahs.—Reg. II., 1795, sec. iv.

116. The begah of three dirrahs ilahee, thus established, consists of twenty poles, each measuring eight feet and four inches and eight-tenths of an inch; the whole length being one hundred and sixty-eight feet, giving a surface or area of twenty-eight thousand two hundred and twenty-four square feet, or three thousand one hundred and thirty-six square yards; and the biswah, or twentieth part of this begah, of one hundred and fifty-six square yards and eight-tenths of a yard. On its appearing that several of the aumils and canongoes understood that the kesraut, or difference in the length between the former and present measuring-rod, was to affect the assessment on all kinds of cultivation, the resident issued an explanatory notification on the 12th of May, 1789, to the following effect, viz., In the places where the nul or rod of 1187 was less than the general standard rod established for that year, such difference was to be taken and calculated per begah on the jummaee or kowlee, i. e., nukdy land, and also upon that known under the denomination of rye kunkooty, or land the produce of which is calculated at a fixed or usual quantity per begah, and the revenues rated thereon accordingly. Thus, where the rye kunkooty had been three maunds, or four maunds, or taken at any other specific estimate per begah, according to the rye or rate of 1187, upon the ryot's cultivation in general, either on each distinct kind of produce, or upon a medium of the first, second, or third kinds of produce; in such cases, on the principle prescribed with respect to the nukdy, the difference of the rod was to be taken in all instances where actual mensuration by the new rod of three dirrahs ilahee should at the desire of either party be resorted to for ascertaining the whole extent of ground in cultivation. But on the contrary, where the aumeen of the aumil, in the mode termed kunkoot, should proceed with the gowro, or estimator, and the gomashtah of the canongoe, and these two last-mentioned officers, with the consent of both parties, should estimate the produce of the crop on an inspection of it without measurement, the taking the difference of the rod was neither necessary nor proper, the whole produce being estimated without reference to the extent of the begah. All parties were required to attend to the letter and spirit of these prescriptions; and in conformity thereto, it was further signified to them, that where the crops were estimated in the mode termed danabundy kunkooty, that is, where the revenue is assessed according to the gross produce without a measurement of the ground, the kesraut, or difference between the old and newly-established rods, was not to be taken, as in these instances the revenue payable to Government was not calculated on the extent of the ground, but on the gross quantity of the produce. It having appeared also that in the old nuls or lettas (measuring-rods or ropes) the ryots had been defrauded by the aumils unduly shortening them, by subtracting from their length the mour or loops at each end, it was ordered that, in ascertaining the difference between those new and old nuls or lettas, the full length of the old ones should be allowed in favour of those who pay the revenue inclusive of the mour or loops. —Reg. II., 1795, sec. v.

117. The rules passed on the 25th June, 1788 (as contained in paragraph 114), were approved by the Governor-General in Council on the 3rd of October of the same year, as preparatory to the establishment of a more regular system of assessing and collecting the revenue. With a view to the introduction of this system, the resident was at the same time authorized to take upon himself the entire formation of the settlement for 1196. This settlement was accordingly made principally on the grounds of the reports of the canongoes, and their estimates of the actual produce from the assul and abwaub, as the same stood in 1187, Fussily (the rates of which year were declared to be the standard according to which the payments of the ryots were to be regulated in future), and the same accounts for 1195, or the latest assessment. These accounts, exhibiting the assets of those two years, were compared with the douls or estimates of the assets of the then current year 1196, as delivered in by the canongoes. From these douls, the dehyek, or allowance of ten per cent. to the aumil as his profits, and the charges of mofussil management, the several articles of deduction and remission coming under the heads of maafy and mujray, the amount of the nankar or allow-

ances of the canongoes in the lands assigned to them in each pergunnah, and the half of the forme bhuray (i. e., the moiety thereof allowed to the aumils for charges of remittance) being severally deducted, the residue of the gross assets, as contained in the doul or estimate of the canongoes, constituted the sum to be paid by the aumil to Government.—Reg. II., 1795, sec. vi.

118. The other moiety of the bhuray mentioned in the preceding rule (which had previously been collected on behalf of Government), together with the article of nuzeranah and russoom khazanah, &c., were abolished in the course of the arrangement of the settlement of this year, together with the farm of the manufacture of the earth called sujee, which had before been let on lease by the rajah's officers.—Reg. II., 1795, sec. vii.

119. *First.* A new form of cabooleat was at the same time ordered to be taken from all the aumils, in which the doul of the canongoes, and the deductions made therefrom on account of lands exempted from the payment of revenue, and the form of the new pottah for the ryots, were inserted. The aumils bound themselves to perform and abide by the several stipulations and prescriptions therein contained, as fundamental conditions of the settlement. They likewise engaged not to demand from the ryots any abwaub established since 1187: nor any abwaub for the canongoe's allowances, or the banker's half of the bhuray, the latter article consisting, as specified in paragraph 117, of an allowance to the aumil to pay the charges of the banker through whom he made his remittances to the treasury. Both of these articles, viz., the cess hitherto levied from the ryots for the canongoe's allowances, and the half bhuray in question (the other moiety of the latter of which articles was relinquished by Government as specified in the preceding paragraph) were abolished and struck out of the settlement. It was at the same time provided, that the canongoes should be paid by Government from the collections, whilst the amount of the banker's portion of the bhuray was granted as a deduction to the aumil, from the tushkhees or funds stated in the doul or estimate of the canongoes, on which the agreement of the aumil with Government was founded. On these principles, a general settlement of the zemindarry was made on leases partly for one, and partly for five years, in the proportion of nearly one-third for the former and of two-thirds for the latter term.

*Second.* On the 12th of February, 1789, a rule was published for determining the huk ul tehseel, or commission on the collections made by farmers of villages relinquishing their engagements before the close of the year. This rule directed, that if the jumma payable by any such farmer to Government did not exceed five thousand rupees per annum, he should not be entitled to or receive any such commission, but be held accountable to his successor for the full amount which he had realized, or where he was not succeeded by any new farmer to the aumil; but that, in the event of the annual jumma of such farmer exceeding five thousand rupees, he should be allowed a commission of five per cent. by the aumil out of his own dehyek (or the commission of ten per cent. on the amount which he contracted to pay to Government), so as, in either case, to prevent the ryots from suffering by the change of village farmers, whose repeated intermediate commissions had often been levied from them, by way of cess, above their appointed foteh or rent, under the former native administrations in the zemindary.—Reg. II., 1795, sec. viii.

120. *First.* For the guidance of the aumils in forming their mofussil settlements (which took place from the beginning of the Fussily year 1196), the following orders were issued on the 14th of June, 1789, respecting the interior arrangements to be adopted from the commencement of the second year of the term of the leases for five years.

*Second.* That the villages and lands should be let by the aumils to the zemindars, or hereditary landholders, and not to mere farmers (excepting where no hereditary landholders remained), on the douls or estimates of the revenue assets in each person's share in the lands let on a five years' lease, for the remaining four years thereof; but that, where the hereditary zemindars refused to engage and give security for the payment of the amount of the canongoe's doul, their lands should be rented for the same term to farmers, and that the pottahs to be given according to the prescribed form should contain the full amount to be paid on all accounts to the aumils, without any reservation of a separate nuzeranah, or other demand.

*Third.* During the administration of the Nawaub Vizier, a sequestration was made of sundry ayma villages, several of the proprietors of which had obtained money assignments, and pensions in lieu thereof, one of which pensions also was afterwards resumed during his excellency's government. In consideration of the long period which had elapsed since the dispossession of these aymadars, it was declared, that if any of them should prefer claims to be restored to the lands which they before occupied, under their former grants, such claims would not be attended to or admitted.—Reg. II., 1795, sec. ix.

121. The settlement, as made in 1196, for the periods of one year and for five years, was approved of by the Governor-General in Council, on the 17th of June, 1789. The resident was, at the same time, directed to endeavour to introduce into Benares the system proposed for the permanent settlement of the province of Behar, having for its object the ascertaining and limiting the demand of Government, and securing to its subjects, in perpetuity, the quiet enjoyment of the

fruits of their industry. The arrangements which had been adopted in Benares were obviously inadequate for that purpose. The amount of the revenue realizable by the aumils from the ryots and under-farmers varied agreeably to the extent of the actual cultivation, and accordingly, the produce of the lands not being ascertainable until the rebby or second crop had ripened, the aumils collected in the mean time from their under-renters (whether village zemindars or farmers) on account, until the arrival of the season for forming an estimate of the produce of the whole year, when the zemindars or farmers entered into cabooleats for the year. This mode of collection was productive of many disputes. When it appeared to the aumil that his under-farmers were unwilling to pay to him an adequate consideration for their farms, he of course became desirous of dispossessing them, and of either letting the farms to others, or of collecting the rents himself immediately from the ryots. This system tended to discourage agriculture, at the same time that it operated as a source of constant altercation between the aumils and the various competitors for village tenures, and consequently rendered it desirable to conclude separate mofussil settlements, formed under the sanction of Government, for each talooka and mozah, or village, throughout the country, paying revenue to Government.—Reg. II., 1795, sec. x.

122. On the receipt of the orders of the Governor-General in Council of the 17th of June, 1789, the resident issued instructions to the aumils and canongoes to proceed in the mofussil settlement; declaring it, however, subject to his revision and confirmation, as he had determined when the rebby, or second crop, should have been sown, to form an estimate of the revenue funds in each village, payable by the zemindars and farmers respectively, and to fix it for the four unexpired years of the five years' leases of the aumils, wherever those leases extended. This revision was appointed to take place in each pergunnah, in order that, after the mofussil settlements for four years, beginning from 1197, should have been approved, it might be declared permanent for the same term as the settlement to be made for the period of ten years, throughout that portion of the district which was let on only an annual lease. This last part of the arrangement was to be executed more immediately under the personal inspection of the resident, on nearly the same general principles as had been prescribed by Government for the settlement of the province of Behar. On these preparatory measures being communicated to the Governor-General in Council, it was resolved that a settlement of the zemindary of Benares should be formed for a period of ten years, agreeably to his resolutions of the 20th May and 18th of September, 1789, regarding the settlement of the province of Behar.—Reg. II., 1795, sec. xi.

123. A material deviation, however, was unavoidably made from these resolutions; for Rajah Mahipnarain at that time declining (although he subsequently acquiesced in the measure, as specified in Regulation I., 1795) to consent to the restoration of the numerous class of village zemindars, who had been dispossessed and reduced to the situation of cultivating ryots, during the administrations of the Rajahs Bulwunt Sing and Cheyte Sing, it became necessary to exclude from the benefit of the rights to be conferred by this decennial settlement, all those landholders who had been so dispossessed and reduced before the 1st of July, 1775 (1182 Fussily), the date of the final transfer of the sovereignty of Benares to the Company.—Reg. II., 1795, sec. xii.

124. For the purpose of forming this permanent settlement, the resident and his assistants proceeded, in November, in 1789, on different circuits throughout the four sircars composing the zemindary of Benares; their object being, in respect to the quartennial mofussil settlements, to examine and revise the assessment, as proposed by the aumils and canongoes on the ground of the assul and abwaub up to the year 1187, and to correct such errors as should appear to have been made, either in the exclusion of persons entitled to be considered as zemindars (consistently with the rule of exclusion specified in the preceding paragraph), or in the allotment of the jumma, in the constituent parts of the total of the assessment of each district. This allotment was to be regulated (as well in regard to the quartennial as the decennial settlements), as nearly as might be ascertainable, according to the ability of the respective villages or puttees (or shares or subdivisions of villages), so as to admit of the zemindars and farmers realizing the revenue assessed in conformity to the revenue rates of 1187; and where a large proportion of the land remained waste and uncultivated, a gradual and moderate russud or increase for the few first years of the term of the general leases was to be assessed, in consideration of the right of Government to some share in the advantages accruing to the renter, by bringing the land into cultivation. It was further provided, that the article of spirituous liquors, and the tax upon shopkeepers, dealers, and weavers, comprehended under the denominations of abkary, ghur dewary, and khergui, should be separated from the collections of the renters, and realized by the aumils of the respective districts, as far as those articles separately existed, but without attempting to extend them.—Reg. II., 1795, sec. xiii.

125. *First.* In the manner above described, and with the assistance of the accounts of the tushkhees for the preceding ten years, and such other accounts and local information as could be obtained through the canongoes or otherwise, the mofussil settlements for four and ten years were concluded. The pottahs for the settlements for four years were issued under the seals of the

aumils, and numbered and countersigned in English by the resident or his assistants; and those for the settlements for ten years were authenticated by the signatures of the rajah and the resident. The cabooleats or engagements entered into by the village zemindars and farmers on the formation of the permanent settlement bound them to an observance of the following articles:—

*Second.* To pay the stipulated annual revenue punctually from the month of Koar (October) to Jeyte (June) in each year; and agreeing, in case of failure, that their property, real and personal, should be sold to make good the deficiency.

*Third.* Not to attach, without the sanction of Government, any maafy, mujray, kishnarpun, or other description of la-khiraj land in the possession of individuals, and held by them exempt from the payment of revenue up to the end of the Fussily year 1195; and agreeing, in the event of Government's resuming any part of such exempted lands, to pay the revenue assessable thereon, in addition to the jumma fixed by their engagements; and stipulating not to make any new grants of exempted lands, on pain of such lands being confiscated to Government, and of double the revenue assessable thereon being levied from the grantee or grantees for the period during which such grantee or grantees should have continued in possession.

*Fourth.* To collect from the ryots according to the hookumnamas or Regulations of the 25th of June and of 1st of July, 1788, referred to in Sections III. and IV.

*Fifth.* To grant receipts to the ryots for their payments, under the penalty of a fine of double the amount, to be awarded to any ryot who should prove that he had been refused such receipt.

*Sixth.* To support the canongoes in the full exercise of their functions.

*Seventh.* Not to levy or receive any of the articles of the abolished sayer-jehaut, nor any sum on account of khaneh shoomary (another term for the ghur dewary or house-tax), or abkary or distilleries, the collection of the two last-mentioned articles (as specified in the preceding paragraph) having been separated from the general settlement, and committed on behalf of Government to the aumils. The penalty for breach of this article was fixed at three times the amount that might be illicitly collected.

*Eighth.* To be responsible, subordinately to the aumil, for the maintenance of the peace, and for apprehending all disturbers thereof, in and throughout their respective estates and farms; not to harbour thieves or robbers, but to secure their persons and deliver them up for trial, as well as to recover, or in failure thereof, to be answerable for, and to make good the value of all property robbed or stolen within their respective limits.

*Ninth.* To send in for trial, accompanied by an attested report of the circumstances of the case, all parties concerned in broils, affrays, murders, or other breaches of the peace.

*Tenth.* To obey all summonses or orders issued on the part of Government, on pain of incurring forfeiture of property, as for rebellion.—Reg. II., 1795, sec. xiv.

126. *First.* On the conclusion of this permanent settlement, new engagements were also entered into with the aumils. By these engagements their office was declared to be that of hakim or magistrate, and teheeldar, or collector of the revenue ascertained by the pottahs issued to the village zemindars and farmers to be payable from their several aumildaries; and they rendered themselves responsible for the regular realizing the amount of this revenue, and bound themselves to abstain from levying any excess on their own account to enforce the several stipulations with the landholders and farmers as set forth in the preceding paragraph, and to cause the village zemindars to issue pottahs to their ryots in conformity to the Regulation of the 25th of June, 1788. They were also vested with a discretionary authority to diminish, or to admit to be lowered, the revenue rates of 1187, Fussily, where the exaction of them might be found, under the actual circumstances of any part of the district, to operate to the oppression or distress of the present cultivators; but they were at the same time prohibited from enhancing the rates of the said year 1187 under any pretence whatsoever. They were further required to grant receipts for all payments of revenue made to them, on pain of being subject for refusal or omission to such fine as the resident should think it proper to impose; to regulate the rates of tullubana leviable on parties in arrear, by the custom of the pergunnah, and to account for and pay the sum realized under this head to Government; and to refrain from the collection of any part of the sayer or gunge tolls or duties, under the same penalty for disobedience as the village zemindars and farmers are declared liable to in similar cases, as specified in Clause Seventh of the preceding paragraph. They were also declared personally responsible to Government in the first instance in regard to the maintenance of the peace, and thefts and robberies committed within their respective aumildaries, under the rules prescribed in similar cases with respect to the zemindars and farmers in Clause Eighth of the preceding paragraph, with a right, however, to have recourse, for their own indemnification, to the landholder or farmer within whose limits the theft or robbery might occur.

*Second.* In their capacities of hakims or magistrates, the aumils were instructed to apprehend and send in for trial, accompanied by the necessary information and evidence, all persons committing breaches of the peace; and in concert with the canongoes, to inquire into and to decide (subject to an appeal to the resident, should either of the parties desire it) according to the

principles of the Regulations of the 25th of June, 1788, all complaints preferred to them regarding differences occurring between the zemindars, farmers, and ryots, relative to the malguzary or revenue, with authority to refer, with the consent of the parties, other causes of a civil nature respecting caste, marriage, shares in land, and debts, to be determined by arbitration; or where both parties should not consent to this mode of adjustment, to desire them to repair to and institute their suits in the Moolky Dewanny Adawlut, or Provincial Civil Court established at Benares, to all orders and decrees issued from which, or from any other Court of justice, or from the rajah or the resident, the aumils were required and agreed, on pain of dismission, to yield the most prompt obedience.

*Third.* It having afterwards appeared that in several instances the aumils had clandestinely availed themselves of their authority to procure deeds of conveyance, in their own names or those of their relations, for lands the property of persons in arrears on account of the revenue, and whose balances had been thereby either wholly or partially liquidated, a rule was published on the 19th of September, 1794, prohibiting and declaring null and void all such conveyances that might be made in future; and on the 31st of October following, a further rule was passed, giving to all persons who might have thus disposed of their lands, or to their heirs or putteedars, the option of suing for the recovery of them in a Court of justice, at any time within five years from the date of such conveyances; and the parties so prosecuting were declared entitled to have the conveyances annulled, and to regain possession of the property, on repaying to the purchasing aumil or his heirs the purchase-money, with simple interest.—Reg. II., 1795, sec. xv.

127. *First.* The adjustment of the disputed claims to lands formed one of the principal difficulties which occurred in the progress of the settlement. In many instances, contests existed between the putteedars or sharers in the same village as to their respective proportions, or between claimants of different families to the same villages. In all these cases, it was observed as a general rule to confirm or admit those zemindars who were either in the actual occupancy, or who had at any time been known to have had possession since the final transfer of Benares to the Company in 1775 (the zemindars dispossessed before which period, the Governor-General in Council, on the 11th April, 1788, determined should not be restored in compliance with the objections which the rajah then entertained to their restoration, but which he subsequently relinquished, as stated in paragraph 123), leaving those who might think themselves entitled to reinstatement under this rule, to seek redress in the Moolky Adawlut. But as it became necessary during the progress of the settlement, to pass orders in a summary way on disputes of this nature, it was explained to all parties, that the new pottahs were meant only to fix the rental, and in no-wise to constitute a bar to the recovery of any proprietary right in land, for which suits might be instituted in the Court of justice above mentioned in the same manner as if no such pottahs had been granted. Instructions to this effect were issued to the judge of the Court, and separate engagements were taken from all the present pottah-holders, whether zemindars or farmers, binding them to a ready attendance on and submission to the judicial authority of the said Court and the Court of Appeal, in respect to all such cases; and the aumils were prohibited from making alterations in the pottahs, excepting in conformity to judgments passed in both or either of those Courts. The settlement thus concluded, consisting of engagements with zemindars for about eight-twelfths of the whole country, of leases to farmers for about three-twelfths, whilst the remaining twelfth continued amauny, in consequence of there being found for the places included in the last-mentioned portion neither zemindars nor farmers, so that the aumils collected the public dues immediately from the ryots.

*Second.* Pursuant to the principles prescribed for this quartennial and decennial settlement, sundry village farmers having been removed during the progress of it by the reinstatement of the rightful zemindars, a rule was published, on the 21st of February, 1790, for adjusting the accounts of the wassilaut or current year's collections between such parties. By this rule, the displaced farmers were entitled to credit for the amount of whatever tuccavy (money for the purchase of seed) they might establish to have advanced to the ryots, together with a commission of three per cent. (whatever might be the extent of the farm) on the amount of the revenue realized. The amount of this charge was to be borne altogether by the reinstated zemindar, without his being entitled to make any demand on that account from his ryots, who were only to repay to him the amount of the tuccavy that had been really advanced to them by the removed farmer. But such farmer was not to be allowed credit for the amount of any bonds or engagements executed by ryots for sums stated to be advanced for tuccavy, but which should in reality have been taken from them for the balances of former years, which were thence virtually declared irrecoverable.—Reg. II., 1795, sec. xvi.

128. *First.* The landholders in the zemindary of Benares consist for the most part of village zemindars, paying the revenue of their lands to Government jointly with one or more putteedars, or partners descended from the same common stock. Some of these putteedars have had their interior puttees or shares rendered distinct; whilst those of the major part still continue annexed

to, and blended or in common with, the share or shares of the principal of the family, or of the head men amongst the brethren, being either one or more, whose names have been usually inserted in the pottahs, cabooleats, and other engagements for the public revenue. With the general consent of the inferior putteedars, this mode was adhered to in the aforesaid settlement, leaving an option to such putteedars as might then or afterwards think themselves aggrieved, or be desirous of separating from their brethren, to prosecute for that purpose in the Adawlut. By this mode of procedure, they may obtain a separation of their family share of the estate, and procure a separate pottah, subject to the payment of a proportionate part of the jumma assessed on the joint estate; but, in the meantime, those of the brethren whose names stand inserted in the Government's pottah, are held and considered to be immediately responsible, through the aumils, to Government for the whole of that jumma. The only exception of this general rule exists in the pergunnah of Kurrendeh, where the decennial settlement could only be concluded by a considerable number of these zemindars being admitted to enter into cabooleats, in which they themselves agreed to the nomination of certain persons to act on their joint parts, under the description of serberakars, or managers. This expedient was acquiesced in, under the condition that the responsibility of the zemindars should remain undiminished, and that they might, whenever they pleased, dismiss these agents, after adjusting accounts with, and satisfying them as to any balance that might be justly due to them.

*Second.* There are also many talookdaries within the four sircars composing the zemindary of Benares, which have depending on them a greater or less number of village zemindars, many of whom still retain the right of disposing by sale of their own estates, subject, of course, to the payment of the usual jumma to the talookdar, and to the conditions specified in Clause Ninth, Section XXXV., Regulation XXII., 1795. The settlement of Government has been concluded (on the same principles as are prescribed respecting the zemindaries) with these talookdars, who are left to assess their village zemindars, either in proportion to their own sudder jumma, with some addition for charges of management, or according to the extent and value of the produce, as local custom or the good-will of the parties may direct.

*Third.* The circumstances of the pergunnah of Agowrie Burhur, in the sircar of Chunar, constitute in some degrée a deviation from the rule observed in the general settlement. This pergunnah appertained to its separate rajahs, until they were expelled by Rajah Bulwunt Sing. Their descendants appearing, and having performed some public services in 1781, Government ordered that Rajah Adil Sah, their then representative, should be restored. This order appearing afterwards to be repugnant to the principle of the general settlement concluded with the Rajah Mahipnarain Sing, the tenure of the family of Adil Sah was, by an order of Government under date the 11th of April, 1788, limited to the period of his natural life, during which the interior settlement of the pergunnah was, with his consent, and under his seal and the resident's signature, made with the talookdars and zemindars, most of whom were of his own blood and lineage; or with the birteeas, being the persons on whom his ancestors had conferred grants of lands; or with gherrooas, being such persons as he or his ancestors had put in possession of lands on mortgage. These several descriptions of landholders are considered as having a permanent interest in their tenures, which have therefore been included in the general account of the settlements concluded with zemindars. The remainder of the pergunnah has been let to farmers, on the conditions common to the rest of the four sircars. Rajah Adil Sah subsequently dying, Government, with the acquiescence of Rajah Mahipnarain, permitted his heirs to succeed him in the pergunnah, in the permanent settlement of which, however, they are restricted from making any alterations or innovations equally with the other aumils or tehseeldars.

*Fourth.* The pergunnah of Beleeah, in the sircar of Ghazeepoor, is similarly circumstanced as to the expulsion of its rajahs by Rajah Bulwunt Sing, and the intended restoration of Bhowayel Deo, their present representative. But his reinstatement having never taken place, he is allowed to live in the pergunnah, on a pension which he receives from Government; and the settlement has been made with such of his family, and of those Rajahs of Beleeah who preceded it, as could make out pretensions to permanent tenures or estates; and where such pretensions could not be established, or were not preferred, the settlement has taken place with the mokuddums, or those of the principal ryots who had long paid the revenue of their present tenures, being the villages of which they are inhabitants; it being meant that these mokuddumy tenures should be considered equally permanent, and be liable to the same conditions as those of the zemindars, and where neither of these descriptions of persons could be found, the villages were let to farmers, excepting such part of them as for want of farmers remained amauny.

*Fifth.* The zemindary part of the talooka of Mujehwa, in the pergunnah of Kuswar and sircar of Benares, has been let out in separate portions, under the seal of Phelwaun Sing (the principal talookdar, and who was acting at the same time as aumil and collector on the part of Government), and the confirmatory signature of the resident or of his assistant, to Phelwaun Sing himself and his relations; he being subject to the same restrictions, with regard to making alterations in

the settlement without the sanction of Government, as are imposed on the heirs of Rajah Adil Sah, in the pergunnah of Burhur Agowrie, as specified in Clause Third.

*Sixth.* In the settlement of Kernadanry, in the pergunnah of Kuswar or Gungapoor, there is this peculiarity, that after the conclusion of it, Rajah Mahipnarain objecting to pottahs being granted by the resident to the parties with whom it was made, on the ground that the talooka in question formed part of his family zemindary of Gungapoor, it was in consequence settled between the rajah and the resident, in October, 1794, that although in consideration of the rajah's objections, the malguzars of this talooka of Kernadanry should not receive pottahs from Government in exchange for the cabooleats they had entered into, the rajah (who is their tehseeldar or collector) should not dispossess any of them without the sanction of the officers of Government, and in the event of complaints for exaction, that the case should be open to the same mode of inquiry as is established for similar complaints arising in the malguzary lands in general, so as to continue the above-mentioned talooka, in this respect, distinct from the neej or family zemindary lands of the rajah. These family lands consist of the jaghires of Budhoee and of Kera Mungrore, and of the rajah's part of the pergunnah of Kuswar or Gungapoor, inclusive of the talooka of Kerowna; and in consequence of objections offered by the rajah, no mofussil or interior settlement has been made in them by the authority of Government, and the administration of justice in all matters relating to their revenue is specially provided for in paragraphs 153, 154.

*Seventh.* The pergunnah of Lucknear, in the sircar of Ghazeepoor, is inhabited by a race of Raujepoots distinguished by the appellation of Singhers, who pay a moderate fixed revenue (which they assess amongst themselves) to the tehseeldar, or native collector, stationed with them on the part of Government, whose allowances they separately defray; and as neither the native nor the British Government had interfered with the interior assessment of this pergunnah, it was not included in the general arrangements that took place at the period of the quartennial and decennial settlements.

*Eighth.* In the pergunnah of Juanpoor Proper, and in that division of this sircar called the Buksheeat, there are a certain number of villages held by Mahomedans, in virtue of altumgha, muddudmaush, or jaghire grants, from the Emperor or from the soubahdars of Oude, but on which a peshcush by way of quit-rent was established during the administration of the native Government. These peshcushy tenures were continued at the period of the permanent settlement.

*Ninth.* That part of the tract of country called Singrowlee, situated to the southward of the Soane river, which extends as far as the Belea rivulet, is tributary to the zemindary of Benares, whilst the tract of the same district that lies beyond the Belea pays tribute to the independent Rajah of Burdee.—Reg. II., 1795, sec. xvii.

129. The districts in the sircar of Juanpoor, in which salt is produced and manufactured, were let in farm, either inclusive of the land revenue or separately.—Reg. II., 1795, sec. xviii.

130. In consideration of the habits prevalent amongst the newly-restored body of zemindars on their first reinstatement, it was thought advisable to continue them, at least for a period, under the superintendency of the aumil of Government, both in respect to the police and the payment of the revenue. But, at the same time, to provide against exactions being made from them by the aumils, it was, in addition to the penalty specified in paragraph 113, declared a rule, that all persons holding pottahs of Government who might prove any oppression against their respective aumils, should thereupon have the option of becoming huzoory, that is, to pay their own revenue directly to the public treasury, without the intervention in any shape of the agency of the aumil.—Reg. II., 1795, sec. xix.

131. The settlement thus concluded was confirmed by Government, and extended to the lives of all the pottahdars, by an order of the Governor-General in Council under date the 11th of February, 1791, with the exception of the part of the ghur dewarry tax, described in paragraph 124, levied from the weavers under the denomination of khergui, which was abolished.—Reg. II., 1795, sec. xx.

132. The enforcement of the prohibition in paragraph 113 against agore-betay having met with some opposition from certain brahmins and atteets, the Government's share of whose crops had always been ascertained in that mode, and who declared their intention of committing violence on themselves if it was not adhered to with regard to them, the resident, on the 17th of January, 1789, issued a publication disapproving of the conduct of these brahmins and atteets, and apprising them that the Regulations would be enforced. But the practice of agore-betay having prevailed only in a small portion of the country, and consequently there being little probability of many similar instances of opposition occurring, the resident thought it advisable to accompany this publication with an order to the aumils, authorizing and enjoining them not to insist on receiving a money rent from such of the above-mentioned brahmins and atteets as should so persevere in their objections, but to continue the practice of agore-betay with regard to them, until they should consent to the payment of a money rent as well as to the rate of the rent. This order was sanctioned by Government.—Reg. II., 1795, sec. xxi.

133. The first period of the quartennial settlement having expired with the Fussily year 1200, several farmers and some of the landholders not choosing to avail themselves of the privilege of retaining their leases during their lives, as granted to them by the order of Government of the 11th of February, 1791, the lands which they held consequently became amauny. The death of renters, the abuses occasionally practised by the aumils, and the over-assessment of some places, had occasioned vacancies in other tenures, during the several years that had elapsed since the conclusion of the general settlement. In consequence of instructions from Government, under date the 19th of September, 1794, the resident proceeded to re-adjust the settlement of the lands which had been included in these leases, by restoring such of the renters as appeared to have been unduly dispossessed, by admitting the heirs of parties deceased, or reinstating the ancient zemindars, both in lands relinquished by farmers, or which had remained amauny in the hands of the aumils, and finally, by adopting means to improve the cultivation preparatory to issuing new permanent leases (which were accordingly granted) to the landholders and farmers in the pergunnahs of Nerwun, Dhoos, and Chownsa, the settlements made in which places in 1197 had in general failed, owing to the lands being too highly assessed, and to drought and other calamities of season. The settlement of Suktes Ghur also being in a similar predicament, was renewed by the resident in the month of October, 1792; and the experience of several years having evinced that some part of the pergunnah of Zemanea, in the sircar of Ghazeepoor, had been too highly assessed, adequate abatements were in consequence allowed.—Reg. II., 1795, sec. xxii.

134. In the beginning of the Fussily year 1202, a circular order, under date the 1st of November, 1794, was issued to all the aumils, prohibiting them, under penalty of dismission from their aumildaries, from displacing or dispossessing any person holding a pottah from Government without the assent of the resident; and on the 20th of July, 1795, circular instructions were transmitted to the canongoes, enjoining them to report without delay the death of all such pottah-holders, that no lands might remain amauny under the aumils without the knowledge of Government.—Reg. II., 1795, sec. xxiii.

135. In paragraph 130 it has been stated, that it was an original regulation of the general settlement concluded in 1197, that proof of the aumil having made undue exactions from or otherwise oppressed any of the landholders or farmers holding pottahs and paying revenue to Government, should entitle such injured party or parties to become huzoory, i.e., to pay their revenue into the treasury at Benares instead of through the medium of the aumil. [*But for the more effectual protection and security of such pottah-holders, an option of thus becoming huzoory was given from the beginning of the Fussily year* 1202, *by a publication issued under date the* 3rd *of October*, 1794, *to all such pottah-holders as should previously enter into the required mal, fael, and hazir zaminee, or security for the punctual discharge of their revenue, for their peaceable deportment, and for their appearance whenever their attendance may be required. To enable them to procure these securities, they were allowed by the publication one moiety of the aumil's dehyek and bhuray on the amount of the revenue payable by them.*] This publication was sanctioned by the Governor-General in Council, under date the 19th of September, 1794; but from the operation of it were excepted the lands under the rajah and his family, comprehending not only the places specified in Clause Sixth of paragraph 128, but those also of which he holds the aumildary or collectorship, viz., the pergunnah of Ralhoopoor and the talooka of Jahloopoor, and those villages in the vicinity of Benares called the dehaat amanut. But in case of oppression proved, the pottahdars of these last-mentioned places, and of all other mehals under the rajah in which the settlement has been made by Government, are entitled, in virtue of the original rule contained in paragraph 130, to become huzoory. The difference, therefore, between these aumildary mehals under the rajah and the rest of the country at large, consists in it not being merely optional with the pottahdars to separate from him under the publication above specified in this section. As to the administration of justice in these aumildary mehals under the rajah, the jurisdiction of the Courts of Judicature extends over them in common with the country at large, and consequently they do not form a part of the rajah's neej or family lands, the administration of justice in which is provided for by Regulation XV., 1795.—Reg. II., 1795, sec. xxiv.

NOTE.—The passage in italics has been rescinded by Regulation VII., 1807, which provided new rules for zemindars becoming Huzoory.—See post, paragraph 148.

136. For determining questions concerning lands between putteedars or brethren, and partners, inheriting and being, or pretending to be, entitled to joint or distinct proportions of one zemindary, it has been observed as a general rule since the conclusion of the permanent settlement, to consider as superior, and immediately responsible to Government, the person or persons amongst such putteedars in whose name or names the Government's pottah has been made out, and to continue the other putteedars or partners in such situation as they shall have stood in since the Fussily year 1197, leaving them, if dissatisfied with such order, to prosecute in the Adawlut for any further claims.—Reg. II., 1795, sec. xxv.

137. The right of Government to dispose of landed property at public sale for the recovery of balances of revenue is established by the tenour of the engagements of the zemindars, as noticed in Clause Second of paragraph 125; but in consideration of the local usages in that respect in the province of Benares, no such sales have hitherto taken place.—Reg. II., 1795, sec. xxvi.

138. At the period of the settlement concluded in 1197 Fussily, the aumils pledged themselves in writing, and on the faith of their religion, to collect only according to the jumma specified in the pottahs issued to the talookdars and village zemindars and farmers, and to pay in the whole amount thereof to Government, after deducting the dehyek and half bhuray. But there then were, and have since remained, several spots of ground and mozahs or villages, of which no fixed settlement having been made, the collection of the amount of the tushkhees or ascertained funds which the canongoes estimated to be realizable therefrom was entrusted to the aumils. These funds had of course varied during the period that had elapsed since the conclusion of the settlement; and several of the aumils, on the expiration of their five years' leases at the close of the year 1200, claimed and received deductions from Government for alleged deficiencies in the funds of those amauny villages; whilst on the other hand, where the actual had exceeded the estimated receipts, it was presumable that the aumils or their officers had appropriated the surplus. From these considerations, and as the funds in the amauny or kham villages appertained altogether to Government (the aumils being entitled only to their dehyek and bhuray), the resident, on the 12th of January, 1795, published an order, that from the beginning of the Fussily year 1202, the tushkhees of the amauny or kham or cutcha villages in every pergunnah was to be ascertained by aumeens, or other persons empowered for that purpose on the part of Government, and that the amount of the funds, after deducting the dehyek and bhuray, was to be paid by the aumils to Government. Aumeens were accordingly deputed on the above-mentioned date to ascertain the state of these lands, with instructions to summon the putwarries of every village, and in the presence of the canongoes, and of the officers of the aumil, to ascertain the tushkhees or assessable amount on each village and spot then held amauny, in conformity to the rye or rates of 1187; and afterwards to prepare and bring with them the state of the jummabundy of each village, under the attestations of the canongoes, and the signatures of the putwarries and the counter-signatures of the officers of the aumils, that the payments of the aumils to Government might be regulated accordingly. The aumeens were likewise instructed, that if, in the course of their inquiries, it should appear that any of the aumils had granted pottahs to their dependents in any of these amauny lands at lower rates than those of the pergunnah or division in which they might be situated, such pottahs so granted by them were to be declared null and void, the aumils not having been empowered to dispose of any part of the revenue funds, but since the settlement in 1197 having been merely tehseeldaran-neshandar, or responsible collectors.—Reg. II., 1795, sec. xxvii.

139. Inconveniences having been experienced from the applications made to the resident for grants exempting from the payment of revenue spots of ground in the vicinity of the city of Benares, on their being purchased by the native princes of India, or by wealthy natives, to convert into gardens or places of religious worship, the Governor-General in Council determined, on the 28th July, 1794, that no such grants should be made by the resident without the sanction of Government.—Reg. II., 1795, sec. xxviii.

## RIGHTS OF PROPRIETORS UNDER THE SETTLEMENT.

140. As the lands of some few zemindars, and other actual proprietors of land, may have been continued amany or let in farm, in consequence of their refusing to pay the assessment required of them under the Regulations for the quartennial and decennial settlements, the Governor-General in Council notifies to the talookdars, zemindars, and other actual proprietors of land whose lands are held amany, that they shall be restored to the management of their lands, upon their agreeing to the payment of the assessment which has been or may be required of them in conformity to the Regulations above mentioned, and that no alteration shall afterwards be made in that assessment, but that they and their heirs and lawful successors shall be permitted to hold their respective estates at such assessment for ever; and he declares to the talookdars, zemindars, and other actual proprietors of land whose lands have been let in farm, that they shall not regain possession of their lands before the expiration of the period for which they have been farmed (unless the farmers shall voluntarily consent to make over to them the remaining term of their leases and the Governor-General in Council shall approve of the transfer), but that at the expiration of that period, or in the event of any such farmer or farmers forfeiting his or their leases by falling in arrear, or otherwise, such proprietors of land shall be reinstated, on their agreeing to the payment of the assessment which may be required of them, or

(according to the nature of the case) to the conditions with respect to the arrear that may be due, as specified in Clause First, Section XVIII, Regulation VI, 1795, and no alteration shall afterwards be made in the said fixed annual assessment, but such proprietors of land, and their heirs and lawful successors, shall be allowed to hold their respective estates at such assessment for ever —Reg. XXVII., 1795, sec ii

141 In the event of the proprietary right in lands that are or may become the property of Government being transferred to individuals, such individuals, and their heirs and lawful successors, shall be permitted to hold the lands at the assessment at which they may be transferred for ever —Reg. XXVII, 1795, sec iii

142. *First.* The Governor-General in Council trusts that the proprietors of land, sensible of the benefits conferred upon them by the public assessment being fixed for ever, will exert themselves in the cultivation of their lands, under the certainty that they will enjoy exclusively the fruits of their own good management and industry, and that no demand will ever be made upon them, or their heirs or successors, by the present or any future Government, for an augmentation of the public assessment, in consequence of the improvement of their respective estates.

*Second* To discharge the revenue at the stipulated periods without delay or evasion, and to conduct themselves with good faith and moderation towards their putteedars, under-renters, and ryots, are duties at all times indispensably required by Government from the proprietors from whom the revenue is immediately receivable and a strict observance of those duties is now more than ever incumbent upon them, in return for the benefits which they will themselves derive from the orders now issued. The Governor-General in Council therefore expects, that the aforesaid proprietors of land will not only act in this manner themselves towards their putteedars, under-renters, and ryots, but also enjoin the strictest adherence to the same principles in the persons whom they may appoint to collect the rents from them, in whatever instances there may be occasion for such delegation of trust —Reg. XXVII, 1795, sec. iv

143 *First.* It being the duty of the ruling power to protect all classes of people, and more particularly those who from situation are most helpless, the Governor-General in Council, whenever he may deem it proper, will enact such Regulations as he may think necessary for the protection and welfare of the putteedars, under-renters, ryots, and other cultivators of the soil, and no talookdar, zemindar, or other proprietor of land, shall be entitled on this account to make any objection to the discharge of the fixed assessment which they may have respectively agreed to pay

*Second.* The Governor-General in Council having, on the 26th December, 1787, directed the sayer collections to be abolished, and a subsequent settlement having been made with the proprietors of land, exclusive of the articles of collection given up by that abolition, he now declares, that if he shall hereafter think it proper to re-establish the sayer collections or any other internal duties, and to appoint officers on the part of Government to collect them, no proprietor of land will be admitted to any participation thereof, or be entitled to make any claims for remissions of assessment on that account.

*Third.* The Governor-General in Council will impose such assessment as he may deem equitable on all lands at present alienated and paying no public revenue, which have been or may be proved to be held under illegal or invalid titles The assessment so imposed will belong to Government, and no proprietor of land will be entitled to any part of it.

*Fourth* The jumma of those zemindars, talookdars, and other actual proprietors of land, which is declared fixed in the foregoing articles, is to be considered entirely unconnected with, and exclusive of, the produce of any lands set apart for the maintenance of pheris, passees, ghorites, or other description of watchmen, employed in services of police, and the Governor-General in Council reserves to himself the option of resuming the whole or part of the produce of such lands, should he at any time hereafter think fit to exonerate the proprietors of the land from being responsible for the peace, and to appoint officers on the part of Government to perform the duties relating to the police now required from them The Governor-General in Council, however, declares, that the produce of lands which may in that case be resumed, will be appropriated to no other purpose but that of defraying the expense of the police, or providing a maintenance for the pheris, passees, ghorites, or other description of watchmen employed therein.

*Fifth.* Nothing in this or any other Regulation shall be construed to render the lands, of which there are dispossessed proprietors, liable to sale for any arrears which have accrued, or may accrue, on the jumma that has been or may be assessed upon their lands, under the Regulations for the quartennial and decennial settlements, provided that such arrears have accrued, or may accrue, during the time that they have been, or may be dispossessed of the management of their lands. It is to be understood, however, that whenever all or any of the descriptions of dispossessed landholders shall be permitted to assume or retain the management of their lands, in consequence of the ground of their dispossession no longer existing, or of the Governor-General in Council dispensing with, altering, or abolishing those Regulations, the lands of such proprietors

will be held responsible for the payment of the jumma that has been or may be assessed upon them in perpetuity, from the time that the management may devolve upon them.—Reg. XXVII., 1795, sec. v.

144. That no doubt may be entertained, whether proprietors of land are entitled, under the existing Regulations, to dispose of their estates without the previous sanction of Government, the Governor-General in Council notifies to the talookdars, zemindars, and other actual proprietors of land, that they are privileged to transfer to whomsoever they may think proper, by sale, gift, or otherwise, their proprietary right in the whole, or any portion of their respective estates, without applying to Government for its sanction to the transfer; and that all such transfers will be held valid, provided that they be conformable to the Mahomedan or Hindoo laws (according as the religious persuasions of the party or parties making such transfer may render the validity of it determinable by the former or the latter code), and that they be not repugnant to any Regulations now in force, which have been passed by the British administrations, or to any Regulations that they may hereafter enact.—Reg. XXVII., 1795, sec. vi.

145. From the limitation of the public demand upon the lands, the neat income, and consequently the value (independent of increase of rent obtainable by improvements) of any landed property, for the assessment on which a distinct engagement has been or may be entered into between Government and the proprietor, or that may be separately assessed, although included in one engagement, with other estates belonging to the same proprietor, and which may be offered for public or private sale entire, will always be ascertainable by a comparison of the amount of the fixed jumma assessed upon it (which, agreeably to the foregoing declarations, is to remain unalterable for ever, to whomsoever the property may be transferred), with the whole of its produce, allowing for the charges of management. But it is also essential, that a notification should be made of the principles upon which the fixed assessment charged upon any such estate will be apportioned on the several divisions of it, in the event of the whole of it being transferred by public or private sale, or otherwise, in two or more lots, or of a portion of it being transferred in one or in two or more lots, or of its being joint property, and a division of it being made among the proprietors; otherwise, from the want of a declared rule for estimating the proportion of the fixed jumma with which the several shares would be chargeable in such cases, the real value of each share would be uncertain, and consequently the benefits expected to result from fixing the public assessment upon the lands would be but partially obtained. The Governor-General in Council has accordingly prescribed the following rules for apportioning the fixed assessment in the several cases above mentioned; but as Government might sustain a considerable loss of revenue by disproportionate allotments of the assessment, were the apportioning of it in any of the cases above specified to be left to the proprietors, he requires that all such transfers or divisions as may be made by the private act of the parties themselves, be notified to the collector of the revenue, or such other officer as Government may in future prescribe, in order that the fixed jumma assessed upon the whole estate may be apportioned on the several shares in the manner hereafter directed, and that the names of the proprietors of each share, and the jumma charged thereon, may be entered upon the public registers, and that separate engagements for the payment of the jumma assessed upon each share may be executed by the proprietors, who will thenceforward be considered as actual proprietors of land. And the Governor-General in Council declares, that if the parties to such transfers or divisions shall omit to notify them to the collector of the revenue of the province, or such other officers as may be hereafter prescribed, for the purposes before mentioned, the whole of such estate will be held responsible to Government for the discharge of the fixed jumma assessed upon it, in the same manner as if no such transfer or division had ever taken place.

NOTE.—So much of the following rules as relates to the adjustment of the jumma on lands sold in satisfaction of decrees is repealed by Section I., Act IV., 1846.

*First.* In the event of the whole of the lands of a zemindar, talookdar, or other actual proprietor of land, with or on behalf of whom a settlement has been or may be concluded under the Regulations above mentioned, being exposed to public sale by order of the Governor-General in Council for the discharge of arrears of assessment, *or in consequence of the decision of a Court of justice*, in two or more lots, the assessment upon each lot shall be fixed at an amount which shall bear the same proportion to its actual produce as the fixed assessment upon the whole of the lands sold may bear to the whole of their actual produce. This produce shall be ascertained in the mode that is or may be prescribed by the existing Regulations, or such other Regulations as the Governor-General in Council may hereafter adopt, and the purchaser or purchasers of such lands, and his, or her, or their heirs and lawful successors, shall hold them at the jumma at which they may be so purchased for ever.

*Second.* When a portion of the lands of a talookdar, zemindar, or other actual proprietor of land, with or on behalf of whom a settlement has been or may be concluded under the Regula-

tions before mentioned, shall be exposed to public sale by order of the Governor-General in Council for the liquidation of arrears of assessment, *or pursuant to the decision of a Court of justice*, the assessment upon such lands, if disposed of in one lot, shall be fixed at an amount which shall bear the same proportion to their actual produce as the fixed assessment upon the whole of the lands of such proprietor, including those disposed of, may bear to the whole of their actual produce. If the lands sold shall be disposed of in two or more lots, the assessment upon each lot shall be fixed at an amount which shall bear the same proportion to its actual produce as the fixed assessment upon the whole of the lands of such proprietor, including those sold, may bear to the whole of their actual produce. The actual produce of the whole of the lands of such proprietor, whether the portion of them which may be sold be disposed of in one lot or in two or more lots, shall be ascertained in the mode that is or may be prescribed by the existing Regulations, or such other Regulations as the Governor-General in Council may hereafter enact, and the purchaser or purchasers of such lands, and his, or her, or their heirs or successors, will be allowed to hold them at the jumma at which they may be so purchased for ever; and the remainder of the public jumma, which will consequently be payable by the former proprietor of the whole estate on account of the portion of it that may be left in his, or her, or their possession, will continue unalterable for ever.

*Third.* When a talookdar, zemindar, or other actual proprietor of land, with or on behalf of whom a settlement has been or may be concluded, shall transfer the whole of his or her estate, in two or more distinct portions, to two or more persons, or a portion thereof to one person, or to two or more persons in joint property, by private sale, gift, or otherwise, the assessment upon each distinct portion of such estate so transferred shall be fixed at an amount which shall bear the same proportion to its actual produce as the assessment upon the whole of the estate of the transferring proprietor, of which the whole or a portion may be so so transferred, may bear to the whole of its actual produce. This produce shall be ascertained in the mode that is or may be prescribed in the existing Regulations, or such other Regulations as Government may hereafter adopt; and the person or persons to whom such lands may be transferred, and his, or her, or their heirs and lawful successors, shall hold them at the jumma at which they may be transferred for ever; and where only a portion of such estate shall be transferred, the amount of the remainder of the public jumma, which will consequently be payable by the former proprietor of the whole estate on account of the lands that may remain in his or her possession, shall be continued unalterable for ever.

*Fourth.* Whenever a division shall be made of lands, the settlement of which has been or may be concluded with or on behalf of the proprietor or proprietors, and that are or may become the joint property of two or more persons, the assessment upon each share shall be fixed at an amount which shall bear the same proportion to its actual produce as the fixed jumma assessed upon the whole of the estate divided may bear to the whole of its actual produce. This produce shall be ascertained in the mode that is or may be prescribed by the existing Regulations, or such other Regulations as the Governor-General in Council may hereafter adopt, and the sharers, and their heirs and lawful successors, shall hold their respective shares at the jumma which may be so assessed upon them for ever.—Reg. XXVII., 1795, sec. vii.

146. Nothing in this or any other Regulation passed previous to or on this date, shall be construed to authorize the public sale of the lands in any talookdary or zemindary, whilst the party or parties claiming the same, as the ancient proprietors, continue to stand excluded under the limitation specified in paragraph 123; or until, by the operation of the repeal of that limitation under paragraph 110, or in pursuance of the consequent provision in Section XVIII., Regulation VI., 1795, or some other consonant rule made, or that shall hereafter be made in consequence of the said repeal, such party or parties shall have been restored to the management of the revenue of his or their respective talookdaries or zemindaries.—Reg. XXVII., 1795, sec. viii.

147. For the sake of precision it is hereby declared, that wherever the term proprietor, or actual proprietor of any talook, zemindary, village, or other land paying revenue to Government, is or may be used, in this or any other Regulation extending to the province of Benares, and printed and published in the manner prescribed in Regulation XLI., 1793, such term is to be considered as applying to the person or persons holding under each separate lease or pottah from Government (whether he or they possess the entire proprietary right in such lands, or shall be only the principal amongst other putteedars, distinct or common), whose name or names standing inserted in such pottahs, and who having executed the counterpart cabooleats, has or have thereby become immediately responsible to Government, as well for the payment of the revenue as for the performance of the other stipulations and conditions contained in the quartennial and decennial deeds of settlement; without however affecting or prejudicing the rights, distinct or common, of any putteedars or sharers where any such shall exist, and which, in case of dispute with the pottahdars or holders of the pottahs, are to be determined by the Courts of Adawlut, according to what shall be ascertained to be the respective rights of the parties, agreeably to the principles of

justice, and the laws, customs, and usages of the district, as referred to in Regulation II., 1795, as far as regards the parties in question.—Reg. XXVII., 1795, sec. x.

## HUZOORY ZEMINDARS.

148. No security shall be required or taken from the zemindars on their becoming huzoory, either for their personal appearance or for their peaceable deportment, or for their punctual discharge of their revenue, the lands themselves being deemed sufficient security for the public revenue, and the zemindars being, of course, amenable to the general laws of the country for their peaceable and proper demeanour.—Reg. VII., 1807, sec. ii.

149. Whenever any zemindar shall become huzoory, he shall pay the amount of the revenue specified in the engagements contracted by him with Government, directly to the treasury of the collector, and shall not be considered to have any claim upon Government on account of the moiety of the dehyek and bhurray mentioned in the preceding rule, or on account of any part thereof.—Reg. VII., 1807, sec. iii.

150. Whenever any zemindar may be desirous of paying his revenue directly to the collector's treasury, the collector shall immediately comply with the application; unless he may be of opinion that, in consequence of the situation of the lands or of other circumstances, public inconvenience will be experienced from that arrangement; in which case he shall furnish the Board of Revenue with the necessary report on the subject, who are hereby empowered to determine whether the zemindar shall in future pay his revenue directly to the treasury of the collector, or through the medium of the tehseeldar, as heretofore.—Reg. VII., 1807, sec. iv.

151. The provisions respecting the duties to be performed by the zemindars in the maintenance of the peace within their respective estates, and the responsibility which attaches to them on that account, are to be considered to be in full force and effect.—Reg. VII., 1807, sec. v.

NOTE.—See Regulation XIV., 1807.

152. As the tehseeldars will, by the operation of the foregoing rules, be relieved from all duty and responsibility with respect to the support of the police within the limits of estates which may henceforward become huzoory, they will not, of course, be considered entitled to any part of the dehyek and bhurray at present receivable by them on account of such estates.—Reg. VII., 1807, sec. vi.

## JAGHIRES OF THE RAJAH OF BENARES.

153. In the event of any complaints being preferred to the City Court or to any Zillah Court, relative to undue exactions of revenue, or any breach of agreement in respect to pottahs, or the resumption of kishnarpun, or other description of lands exempted from the payment of revenue, in the jaghire mehauls of Budhooe or of Kera Mungrore, or in the rajah's hereditary zemindary of Gungapore, the complaints are not to be taken cognizance of in the courts of justice, but the parties are to be desired to make application to the rajah or to his dewan; and in case of their not obtaining justice, they are to have recourse to the collector, who will proceed to bring such causes to a just and equitable termination, in the manner stated in the under-specified article of an agreement concluded by the resident with Rajah Mahipnarain, under date the 27th of October, 1794. An option, however, is reserved to the persons deeming themselves injured, to prefer their applications for redress in the first instance to the collector, who, in all cases, by reference to and communication with the rajah and his officers, is to cause substantial justice to be rendered to the parties.—Reg. XV., 1795, sec. iii., cl. 1.

154. Article Third of an agreement concluded by the resident at Benares with Rajah Mahipnarain, under date the 27th October, 1794. "In case of complaints relative to revenue causes or charity ground, &c. being preferred to the huzoor (i. e., the English Government) by any parties residing within the jaghire and altumgah, &c., the personal or private lands of Rajah Mahipnarain Sing, the inquiry thereinto shall be made in like manner as such cases were amicably conducted between Mr. Duncan and the rajah; that is, that since the gentleman holding the station of collector will have more concern and connection with such matters than the other gentlemen, the rule shall be, that with the privity and ascertainment of the said collector (who is to have regard to the honour and dignity of the said rajah), such causes are to be settled through the channel of the said rajah, or of the officers of the said rajah's cutcherry; it being at the same time understood and provided, that as it is a duty incumbent on the Honourable Company's Government to distribute and insure the attainment of justice to all the inhabitants of Benares, should it so happen, that, after referring such complaints to the rajah or to his officers in the cutcherry, the contentment of the parties complaining and aggrieved shall not be obtained, the rajah shall,

relative to the adjustment of such causes, listen to and approve of the suggestions and advice of the collector, in like manner as hath been practised in the time of Mr. Duncan; and it is also incumbent on the said collector, in all proper and just cases, to show the utmost attention possible to the rajah's accommodation, and to hold in view the maintenance of his honour and dignity, such being entirely consistent with the wishes of Government, and if (which God forbid) any such subject should arise as cannot be settled between the said collector and the rajah aforesaid, the decision in such case shall depend on the Governor-General in Council."—Reg XV, 1795, sec. iii., cl. 2

155. The superintendence of the mehauls of the Rajah of Benares in the jaghires of Bhurdoee, Kera Mungrore, and that part of pergunnah Kuswar or Gungapore which is the rajah's family zemindary, shall be vested in such officer as the Governor-General in Council may, from time to time, by an order in council, appoint —Reg VII, 1828, sec. iii

156 The administration of justice in all matters connected with the revenue shall continue to be conducted through the agency of the rajah, under the restrictions herein provided; but the reservation of this privilege shall not be understood as divesting the population of any of the rights and interests connected with the occupation, possession, or transfer of land, whether by sale, gift, or inheritance, or the produce of it, which immemorially belong to them, and are enjoyed by similar classes throughout the rest of the province —Reg VII, 1828, sec. iv

157. *First.* No mofussil or detailed settlement having been formed within the mehauls in question by the authority of Government, the assessment of the land, and the settlement of the several villages comprised in them, shall be made through the channel of the rajah, who is to be guided in all matters relative thereto by the general rules in force within the province of Benares, applicable to such cases.

*Second.* In the selection of parties to engage, those individuals shall be considered entitled to preference, who, had a detailed settlement been extended to these mehauls, under the Regulations of 1795, would have been recognized as zemindars Such individuals shall be recorded under the designation of raees, and the tenures so belonging to them shall be considered heritable and transferable, subject to the conditions in regard to the payment of the jumma assessed upon them, and under which they may be admitted to engagements. When there may be no raees entitled to claim admission, or where the latter may refuse to engage on just terms, the settlement shall be made for a fixed period with farmers, unless the rajah should prefer making a ryotwarry settlement, and collecting the public dues, through his own officers, immediately from the ryots.

*Third.* The assessment of all lands not entitled to be considered rent-free, under the rules contained in Regulation XLI., 1795, shall be fixed with reference to their produce and capability, as ascertained at the time when the revision of the settlement may be made But the assessment shall not be raised above the amount heretofore paid, unless it shall clearly appear that the net profits derived from the land, by those who may be entitled to share in them, would, under the usage of the province and the rules applicable to such cases, authorize the increase demanded

*Fourth.* In admitting particular parties to engagements, such parties shall not be considered as invested with any rights over their co-sharers or under-tenants not previously possessed by them, excepting in so far as may be authorized by the Regulations for realizing the public revenue, all questions therefore between putteedars and sharers, inheriting or claiming to inherit joint or distinct portions of a tenure, or the produce thereof, shall, notwithstanding such admission, be considered open to adjustment on the principles observed in similar cases throughout the province, and all questions regarding the right to possession of khoodkasht and chuppurbund ryots, shall be adjusted on the same principles

*Fifth.* It shall be the duty of the rajah, on occasion of making or revising settlements of land revenue in any of the mehauls referred to in paragraph 153, to unite with the adjustment of the assessment, and the investigation of the extent and produce of the lands, the object of ascertaining and recording all material points connected with the rights, interests, and privileges of the various classes of his tenantry. His proceedings, therefore, shall embrace the formation of as accurate a record as possible of all persons found in possession of the soil, with a specification of the nature and extent of the interests respectively enjoyed by them. The record shall likewise specify the rates per beegah of each description of land or kind of produce in every distinct village All la-khiraj tenures shall, at the same time, be carefully registered, with a detail of every particular connected therewith The proceedings shall likewise contain the names of the putwarries and village watchmen, with a statement of the amount and nature of the allowance assigned to each.

*Sixth.* In cases where two or more persons may possess a joint property in any mehaul, or in the rent or produce thereof, or in cases where such property may be separately possessed by parties subject to common obligations, it shall be competent to the rajah either to make a joint settlement with the parties collectively, or with a portion of them selected to undertake the management as village malguzars, due regard being paid to the wishes of the coparceners, who, until regularly separated, shall continue to hold their lands as subordinate proprietors, subject to the payment of

rent or revenue, at the rates and in the mode heretofore in use or otherwise provided for by the Regulations for the province of Benares.

*Seventh.* When parties enter into engagements who do not possess the entire proprietary right, but may be elected as managers by the coparcenary in general, the non-engaging parceners shall not be held answerable for the default of those individuals, save and except the portion of rent or revenue demandable from them respectively. The rights and interests, distinct or common, of the putteedars or sharers shall not be prejudiced in other respects by such engagements, and all disputes between the said sharers and the engaging proprietors shall be determined according to what shall be ascertained to be the respective rights of the parties, agreeably to the principles of justice, and the laws, customs, and usages of the province.—Reg. VII., 1828, sec. v.

158. *First.* All proprietors of land in the province of Benares, being privileged to transfer to whomsoever they think proper, by sale, gift, mortgage, or otherwise, their proprietary right in the whole or any portion of their respective estates, provided that such transfers be conformable to the Hindoo or Mahomedan laws, according to the religious persuasions of the parties, and to the Regulations in force, it is hereby declared that all such assignments, within the tracts to which this enactment refers, shall be held equally valid, subject to the conditions in regard to leases, and the allotment of jumma prescribed by the Regulations; provided always, that the same be duly notified to the rajah, otherwise the consequences of omitting to make such notification on similar occasions to the collector, will, in like manner, attach to all such transfers; the rules and restrictions applicable to collectors being also applied to the rajah, subject to the orders of the superintendent, who shall, in this behalf, possess and exercise the powers and authority of the Board of Revenue.

*Second.* In all cases, either of transfer or inheritance, the rajah, on application being made for that purpose, shall proceed to record the mutation, and shall take such other steps for securing the rights and interests both of the public and of individuals, as the collectors are required to do on similar occasions in the Benares province.—Reg. VII., 1828, sec. vi.

159. The decision of the rajah or his officers, on all points connected with the foregoing provisions, shall undergo the revision of the superintendent, to whom the whole of the proceedings on the settlement or transfer of any estate shall be certified, and who, after calling for such further information as may appear necessary, shall confirm, modify, or annul the same, as he thinks proper; and the orders thus passed by the superintendent shall be final, unless altered or set aside by the Governor-General in Council.—Reg. VII., 1828, sec. vii.

160. The following rules are prescribed for the guidance of the rajah and his officers, in realizing the public revenue.—Reg. VII., 1828, sec. viii.

161. The Regulations at present in force within the province of Benares, for enabling proprietors and farmers of land to realize their rents with punctuality, for prescribing the process by which the revenue authorities are to collect the revenue payable to Government from the lands, for the imprisonment of defaulters, and for securing the ultimate recovery of arrears by a sale of the landed property from which it may be due, are hereby extended, as far as they may be applicable, to the tracts referred to in paragraph 153.—Reg. VII., 1828, sec. ix.

162. Exclusive of the powers vested in the rajah as zemindar, by which he may distrain and bring to sale, in the mode prescribed by the Regulations, the personal property of under-zemindars, farmers, ryots, or other description of landholder, for arrears of rent or revenue, he is hereby moreover authorized, as far as regards the collection of the same, to exercise the powers of a collector, as defined in the Regulations, within the tracts in question, subject to such restrictions and responsibility as may be now or hereafter imposed by this or any future enactment.—Reg. VII., 1828, sec. x.

163. Whenever it may be necessary to resort to the sale of lands for the recovery of arrears of revenue, or whenever a sale of lands may be required in satisfaction of the decrees of the Courts of Judicature, the sale shall be held in the presence of the rajah or his deputy, either in the public cutcherry, or such other open or convenient place within the pergunnah to which the lands belong, as may be specified in the advertisement, and the course of proceeding directed in regard to public sales for arrears of revenue, shall be considered applicable, and the validity of such sales held contingent on the fulfilment of the several conditions therein specified.—Reg. VII., 1828, sec. xi.

164. The whole of the powers which are exercised by the Boards of Revenue over the collectors, in regard to sales of land, as well as in all matters relative to the collection of public revenue, are hereby vested in the superintendent, and the rajah shall consider himself, in the exercise of the privileges with which he is entrusted, as standing in the same relation towards that officer as the collectors at present stand towards the Board.—Reg. VII., 1828, sec. xii.

165. From the orders of the superintendent, in all such cases, there shall be no appeal but to the Governor-General in Council, and the Civil Courts are not competent to take cognizance of any complaint, from any party soever, contesting the validity of a sale, or claiming rights or interests connected with land, or the rents thereof, within the tracts in question.—Reg. VII., 1828, sec. xiii.

166. All complaints of a breach of the rules herein prescribed for the guidance of the rajah and his officers, in the exercise of the powers thereby entrusted to them, or of unnecessary severity in the execution of them, are declared cognizable by the superintendent, who shall cause substantial justice to be rendered to the parties in the same manner as would have been done under the Regulations, had such complaints been cognizable by the regular courts; provided only that when the offence alleged would authorize a criminal prosecution, the complaint shall be referred to the magistrate, who will proceed to the decision thereof under the Regulations in the same manner as if it had been originally preferred to him.—Reg. VII., 1828, sec. xiv.

167. Torture, personal violence, and every description of corporal punishment to enforce the payment of arrears of rent or revenue, within the tract in question, are hereby strictly prohibited; and any one offending against this prohibition, shall, on the complaint of a person so punished, be liable to prosecution before the Criminal Courts and shall be dealt with, on conviction, as the Regulations require in such cases.—Reg. VII., 1828, sec. xv.

168. In order to secure for the inhabitants of these mehauls the administration of civil justice on the principles in force throughout the rest of the province, a native commissioner shall be maintained by the rajah in each of the pergunnahs referred to in paragraph 153, for the purpose of taking cognizance, in the first instance, of the revenue causes hereafter specified.—Reg. VII., 1828, sec. xvi.

169. The nomination of individuals to the office of native commissioner will be made by the rajah, but previous to such appointments taking effect, he shall communicate what information he may have obtained regarding the age, character, and past employment of the individuals in question, to the superintendent, who shall withhold his concurrence in cases of notorious bad character or incapacity, having regard, however, as far as possible, in the mode of doing so, to the rajah's honour and dignity.—Reg. VII., 1828, sec. xvii.

170. No native commissioner appointed under this Regulation shall be removed from office without sufficient cause; and in all cases of removal, the rajah shall act in concert with and by the advice of the superintendent.—Reg. VII., 1828, sec. xviii.

171. The native commissioners shall be liable to a criminal prosecution for corruption, extortion, or other gross misdemeanor; and on conviction before the Sessions Court, shall be subject to fine and imprisonment, proportionate to the nature and circumstances of the case.—Reg. VII., 1828, sec. xix.

172. Persons invested with the powers of a native commissioner, under this Regulation, are authorized to receive, try, and determine, all suits preferred to them against any inhabitant of their respective jurisdictions relative to land of every description, or the rent, revenue, or produce thereof situated therein, provided the cause of action shall have arisen within the period of twelve years previously to the institution of suits.—Reg. VII., 1828, sec. xx.

173. In receiving, trying, and determining such cases, the native commissioners shall be guided by the rules contained in Regulation XXIII., 1814; and in points not expressly provided for in that Regulation, they shall observe, as nearly as may be practicable, the rules prescribed for the guidance of the Zillah and City Courts in the trial and decision of civil suits.—Reg. VII., 1828, sec. xxi.

174. The rule which prohibits native judicial officers from taking cognizance of cases in which a British subject, or a European foreigner, or an American, may be a party, shall not be held applicable to the native commissioners appointed under this Regulation.—Reg. VII., 1828, sec. xxii.

175. The decision of the native commissioners shall be executed by themselves, under the rules prescribed in the general Regulations for the execution of decrees; provided, however, that if the case be appealed, the commissioner shall be guided by such instructions relative thereto as he may receive from the superintendent.—Reg. VII., 1828, sec. xxiii.

176. The proceedings of the native commissioners shall be subject to the revision of the superintendent, who, in the event of an appeal being preferred to him within the period of six months from the date of any such decision, will call for the papers, and after directing such further investigation to be held as he may judge necessary, will confirm, modify, or annul, the order or decision of the native commissioner, as may appear proper; provided always, that it shall be competent to the Governor-General in Council to supersede the order of the superintendent, on being referred to by either party for that purpose.—Reg. VII., 1828, sec. xxiv.

177. The penalties prescribed by the Regulations for resistance of process in revenue or judicial matters, are hereby declared applicable to all cases of the same nature arising out of the process provided for by this enactment.—Reg. VII., 1828, sec. xxv.

178. It is hereby further declared and enacted, that, except when otherwise directed by the foregoing provisions, the revenue and judicial administration of the mehauls herein referred to shall be regulated by the principles and spirit of the existing Regulations, and where those may not be applicable, by equity and good conscience.—Reg. VII., 1828, sec. xxvi.

# CEDED PROVINCES.

179. The following proclamation, relative to the settlement of the land revenue in the provinces ceded to the Honourable the English East-India Company by the Nawaub Vizier, was published on the 14th day of July, 1802, corresponding with the 29th Assaur of the Fusly year 1209, by the Honourable the late Lieutenant-Governor and the Board of Commissioners, in virtue of the powers vested in them by his Excellency the Most Noble the Governor-General; and the several articles contained in it are hereby confirmed and declared to be in force with the subsequent additions and explanations contained in paragraphs 180 to 185, which comprises the substance of the proclamation issued by the late Lieutenant-Governor and Board of Commissioners on the date above mentioned; with further provision, since made, for the settlement of the land revenue in the ceded provinces, under the extension of the authority of the Board of Revenue to the said provinces.

" PROCLAMATION.

" Whereas it is the intention of the British Government to adopt, at the expiration of the present Fusly year, such a plan for the settlement of the landed revenue of the ceded provinces as may be most conducive to the prosperity of the country and to the happiness of the inhabitants; and whereas it is of the utmost consequence to the success of the measure, as well as to the interests of the zemindars, talookdars, and all others concerned, that the nature and terms thereof should be made known as early as possible, NOTICE IS HEREBY GIVEN :—

" *First.* At the commencement of the Fusly year 1210, the sayer of every denomination will be separated from the mal, or land revenue, and a settlement for the latter only concluded, in all practicable cases, with the zemindars, or other actual proprietors of the soil (unless when disqualified by notoriously bad character, or other good and sufficient cause), for a period of three years, at a fixed, equal, annual jumma; it being understood that such zemindars as are huzoor tehseel, or allowed to pay their kists immediately to the collector of the zillah, are to be responsible for the police of their respective zemindaries.

" *Secondly.* [*At the expiration of the three years another settlement will again be made with the same persons (if willing to engage) for three years, at a fixed, equal, annual jumma; which jumma shall be formed by taking the difference between the annual amount of the first lease and the actual yearly produce of the land at the time of its expiration, and adding two-thirds of such difference to the annual rent of the first lease.*]

NOTE.—The preceding rule was rescinded by sec. ii., Reg. V., 1805, paragraph 197.

" *Thirdly.* At the expiration of the sixth year a new settlement will be made with the same persons (if willing to engage) for a further period of four years, at a fixed, equal, annual jumma, formed by adding to the annual rent of the second three years, three-fourths of the net increase of revenue during any one year of that period.

" *Fourthly.* At the end of these ten years a permanent settlement will be concluded with the same persons (if willing to engage, and if no others who have a better claim shall come forward), for such lands as may be in a sufficiently improved state of cultivation to warrant the measure, on such terms as Government shall deem fair and equitable.

NOTE.—See Reg. IX., 1812, paragraph 204.

" *Fifthly.* Those zemindars who may decline entering into engagements for their estates, as also those whose offers may be rejected by Government, shall, for the present, continue to be allowed the same nankar which they have hitherto received from the Nawaub Vizier.

NOTE.—See sec. v., Reg. VII., 1822; and sec. xi., Reg. IX., 1833.

" *Sixthly.* With respect to such zemindaries as may have been mortgaged or transferred on security, and possession thereof actually given to the mortgagers or sureties, the settlement will be made with the person in possession of the land, as the temporary representative of the proprietor, leaving the latter to obtain possession, either by a private settlement of accounts or by a judicial process.

" *Seventhly.* The settlement of such small talooks or estates as may be only nominally included in large zemindaries, in the sudder jumma of which their jumma may be comprehended, will be made, separately and distinctly, with the proprietors of such small estates, and they will be allowed to pay their revenue directly to the tehseeldars on the part of Government.

" *Eighthly.* With respect to such lands as are without proprietors, or the proprietors of which decline entering into engagements, a village settlement shall be made for three years, at a fixed,

equal, annual jumma, and a preference will be given to the mokuddums, purdhauns, or respectable ryots of the several villages.

"*Ninthly.* In the event of neither proprietors nor farmers being forthcoming, such lands as are in that predicament will be held khas.

"*Tenthly.* All authorized abwaubs are to be consolidated and incorporated with the land rent, and expressed in the pottahs and cabooleats, and nothing but what is there expressed shall be collected from the ryots or under-renters.

"*Eleventhly.* All persons who may enter into engagements for the settlement, must bind themselves, by written obligations, to grant pottahs of the above description to their ryots and under-renters.

"*Twelfthly.* All persons who may enter into engagements with Government, must previously give security for the fulfilment thereof, in an amount equal to one-fourth of their annual jumma.—Reg. XXV., 1803, sec. xxix.

180. *First.* The several collectors in the ceded provinces were authorized by the Board of Commissioners, under date the 28th of August, 1802, to deviate from the rule prescribed in the first clause of the foregoing proclamation, and to conclude the settlement for the first lease of three years at a fair and equitable annual increase, instead of a fixed, equal, annual jumma, in instances in which, from calamity of season, the landholders might be unwilling to engage for their lands at such a jumma, for the first year of the lease, as Government would have been otherwise entitled to demand, with a reference to the probable resources and produce of the lands during the whole of the lease.

*Second.* By an order of the Board of Commissioners, under date the 13th of August, 1802, the several collectors in the ceded provinces were further instructed, in concluding the settlement of their respective zillahs for the first lease of three years, to regulate the allowance of nankar to such of the zemindars as might engage for their lands, by deducting the amount of the nankar from the jumma, and taking engagements from the zemindars for the net residue, provided that the deduction for nankar should not exceed ten per cent. on the net jumma.

*Third.* In modification of the fifth clause of the proclamation issued under date the 14th of July, 1802, (paragraph 179,) whereby it was declared that the zemindars who might decline entering into engagements for their estates, as also zemindars whose offers might be rejected by Government, should for the present continue to be allowed the same nankar which they had heretofore received under the government of the Nawaub Vizier, it was subsequently determined by the Board of Commissioners, that the rate of allowance for nankar should not, in either of the cases stated, exceed ten per cent. on the jumma of the estate.—Reg. XXV., 1803, sec. xxx.

NOTE.—See sec. v., Reg. VII., 1822; and sec. xi., Reg. IX., 1833.

181. *First.* The whole of the lands in the ceded provinces shall be let on a lease for three years, at a fixed, equal annual rent, the amount of which must be determined by such accounts as the collectors may be at present in possession of or may be able hereafter to obtain; [*but no settlement is to be considered final until it has received the previous sanction of the Board of Revenue.*] In cases where, from the state of the country, it may not be practicable to conclude a settlement at a fixed, equal annual jumma or rent, without any obvious loss to Government, the collectors shall make the settlement at such an annual increase, during the first lease of three years, as may appear to them to be just and equitable.

NOTE.—The words in italics were rescinded by cl. 3, sec. xviii., Reg. VIII., 1805, see paragraph 183.

*Second.* The collectors shall insert the following stipulations in every engagement:—*First,* At the expiration of the first lease for three years, another settlement shall be concluded for the further period of three years, at a fixed, equal, annual jumma, [*on the following terms: the difference shall be struck between the annual amount of the first lease and the actual net produce of the lands at the time when it expired, and two-thirds of such difference shall be added to the annual rent of the first lease, and will become that for the second three years.*] *Secondly,* At the expiration of the second three years' lease, new engagements shall be entered into for the further period of four years, at a fixed, equal, annual jumma, the amount of which shall be determined by adding three-fourths of the net increase of revenue during any year of the second three years' lease to the jumma thereof. *Thirdly,* At the end of the ten years, a permanent settlement shall be concluded for such lands as may be in a state of cultivation sufficiently advanced to warrant the measure, on such terms as Government may deem fair and equitable; due regard being had to the actual state of the country, and its means and capability of further improvement. *Fourthly,* Persons fulfilling their engagements for the first three years, shall have the option of renewing the same for the second period on the prescribed terms, and so on for the third period.

NOTE.—The words in italics were rescinded by sec. ii., Reg. V., 1805; see also Regs. V., 1808, and IX., 1812.

*Third.* Persons holding claims to lands for which engagements have been entered into by

the present possessors, and who did not prefer their claim to regain possession of the same within six months from the date (as recorded in the several zillahs) of issuing the proclamation by the Board of Commissioners of the 14th of July, 1802, such claimants shall not be entitled to be put in actual possession before the expiration of the first lease of three years; and claims not preferred within the aforesaid period of three years shall not entitle the claimant to regain possession until the expiration of the ten years. But this rule shall not be construed to restrict persons from preferring their claims at any time within the ten years.

*Fourth.* In all cases the settlement shall be made with the zemindars, provided they offer a fair and equitable jumma. Where a collector may judge it inexpedient to form a settlement with a zemindar, he shall hold proceedings on the subject, detailing at large his reasons for rejecting the claim, with every information he may have obtained relative to such zemindar, and at the same time receiving the zemindar's answer to the objections urged to his claim. The collector shall then transmit the whole of his proceedings to the Board of Revenue, and await their determination on the same.

*Fifth.* Where a zemindar may decline entering into engagements for his estate, he shall be allowed, for the present, the same nankar which he may have been accustomed to receive under the government of the Nawaub Vizier; and, in like manner, where the Board of Revenue may reject the claim of a zemindar to enter into agreements with Government, and such zemindar may have been in the receipt of nankar under the late Government, such rate of nankar shall be continued to him for the present; provided that, in either case, the rate of such allowance shall not exceed the sum of ten per cent. on the jumma of the estate.

NOTE.—See sec. v., Reg. VII., 1822, and sec. xi., Reg. IX., 1833.

*Sixth.* Where a zemindary may have been mortgaged, or transferred as security for a debt, and actual possession given to the mortgagee or surety, the settlement shall be made with such mortgagee or surety in possession, leaving the zemindar at liberty to adjust his accounts with the actual possessor, or to sue for redress in a court of justice.

*Seventh.* In large zemindaries containing several dependent talooks or estates, of which the actual proprietors may be now, and have been for a length of time, in undisturbed possession, the principal zemindars being no more than the immediate channel of receiving the dues of Government, the settlement shall be made with such dependent talookdars separate and distinct from the engagement of the principal zemindars; provided, however, that the talookdars shall be desirous of such separation or the zemindars shall require it.

*Eighth.* In the event of the zemindar considering himself aggrieved by a separation made in conformity to the above clause, or of a talookdar being dissatisfied at not being separated from a zemindary, agreeably to what he may have considered as his right, in either case, the party considering himself aggrieved shall be at liberty to sue for redress in a court of justice. The collectors shall not suffer such disputed claim to interfere with or delay the immediate conclusion of the settlement, which, in all doubtful cases, shall be made with the person in possession.

*Ninth.* Where zemindars, or other actual proprietors, shall decline entering into engagements for their respective estates, or where there are no proprietors, a village settlement shall be made for three years, giving the preference to the mokuddums, purdhauns, or any respectable ryot of the village; but no person, not an actual proprietor, shall (so far as may be practicable) be allowed to engage for more than one assilee village, and its dakhilee or dependent villages.

*Tenth.* Persons of every description, whether proprietors or not, shall give security equal to one-fourth of the stipulated amount of their annual engagements, in default of which their proposals shall be rejected.

*Eleventh.* All persons with whom a settlement may be made, shall bind themselves by a written obligation, under such reasonable penalty as the collectors may think proper to determine, to grant pottahs or leases to the ryots and under-renters of every description, specifying the amount they are respectively to pay; and counter engagements shall be executed by the ryots and under-renters of a similar tenour and purport.

*Twelfth.* In granting pottahs to the ryots and other under-renters, and in receiving cabooleats from them, all authorized and established abwaubs shall be consolidated with the land rent and formed into one jumma, which shall be expressed in a gross sum in the pottahs and cabooleats; and the imposing or levying new abwaubs shall be strictly prevented.

*Thirteenth.* All engagements entered into with Government shall be exclusive of sayer duties, and of all other collections not connected with the land revenue, hitherto levied under the denomination of zemindary and tannahdary duties. The cabooleats executed by zemindars and other actual proprietors of land, shall contain a clause restricting them from collecting sayer duties, or any other duties whatever, in their respective tenures. And the collectors are required to explain fully the nature and extent of this restriction, in order that persons desirous of entering into engagements may regulate their proposals accordingly. Nankar, and pensions of every descrip-

tion, shall be paid by Government from its own treasuries; and no deductions whatever shall be admitted on these or on any other accounts.

*Fourteenth.* Where neither the proprietors nor farmers may tender suitable conditions of agreement, a khas or bowlee settlement shall be made with the ryots, stipulating the shares they are to get from the different kinds of land, as follows:—In politch lands, or such as are in full cultivation, Government shall receive five passerees and the ryot three passerees. In chunchur lands, or such as have not been cultivated for two or three years, Government shall receive two and the ryot six passerees. In bunjer, or waste lands, Government shall receive one and the ryot seven passerees. Chunchur lands after one, and bunjer lands after two years, shall be considered equal to politch; and further, the bunjer lands after one year shall be taxed equal to chunchur. In the khas settlement, the bhaint or nuzzerana shall be abolished; the putwarries' wages shall be borne by the ryots; but the mussahut, or measuring and valuing the crops, shall be defrayed by Government, in consideration of the additional passeree received out of the politch crop. In all cases where crops are valued, it shall be done according to the price-current of the day. In the khas settlement the ryots shall engage that the cultivation of the lands shall not fall off, and that they shall not undertake the cultivation of new lands until they have accomplished that of the old.

*Fifteenth.* The collectors shall, in all cases whatever, take under their own immediate management the settlement and collections of all the large zemindaries; and further, that of all such other lands as they can superintend without detriment to their general avocations.

*Sixteenth.* The proprietors of such estates as shall pay their revenues immediately into the treasury of a collector, shall become responsible for entertaining an efficient police in their respective estates, subject to such general rules and regulations as may be hereafter enacted; with an exception as to cities, large towns, and principal gunges, the expenses of the police of which will be defrayed by Government.

NOTE.—See Reg. XIV., 1807.

*Seventeenth.* In cases where lands to a considerable amount shall be let in farm to one individual, and Government, from the report of the Board of Revenue, shall be of opinion that the other avocations of the collector will admit of the measure, the collections from such farm shall be paid immediately into the treasury of the collector, instead of being received through the medium of a tehseeldar.—Reg. XXVII., 1803, sec. liii.

182. Where more proprietors than one possess an undivided estate, and the whole of them be not within the description of disqualified landholders, the settlement shall be made with them jointly, and they are required to elect a serberakar or manager, who shall have the exclusive management of their lands during the continuance of his appointment.—Reg. LII., 1803, sec. v., cl. 1.

183. Such part of Clause First of paragraph 181 as declares that no settlement shall be considered final in the ceded provinces until it has received the sanction of the Board of Revenue, is rescinded. Instead of the foregoing rule, it is hereby provided that no settlement shall be considered final in the ceded provinces until it shall have received the final sanction of the Governor-General in Council.—Reg. VIII., 1805, sec. xviii., cl. 3.

184. With the view of obviating any misconstruction of the rule to be adopted in adding to the jummia a portion of the increased produce, in concluding the settlements to be formed at the commencement of the Fusly years 1213 and 1217, it is hereby declared, in explanation of the second and third clauses of the proclamation issued on the 14th of July, 1802 (paragraph 179), as well as of Clause Second of paragraph 181, that the amount of the nankar to which the zemindars were entitled under their original engagements for the first triennial settlement, shall be deducted from the actual yearly produce of their estates at the time of the expiration of each lease, and the actual increase of public revenue to be assessed agreeably to the clauses above specified, shall be calculated on the amount of the difference between the actual net produce after such deduction, and the annual amount of the former lease. It is at the same time provided, that the portion of the increased produce relinquished to the zemindars, under the above-mentioned clauses, on the formation of the successive settlements, shall be considered as precluding all claim, on the part of the zemindars, to any further proportion of such increased produce, on account of nankar, in addition to the deduction originally made and continued to them on this account.—Reg. XXV., 1803, sec. xxxi.

185. In pursuance of an order issued by the Board of Commissioners under date the 30th of September, 1802, a discretion is vested in the landholders to grant small portions of land exempt from the payment of revenue, for the support of their village watchmen, whenever they shall prefer making such grants to paying the watchmen a pecuniary allowance. Such grants, however, shall be resumable on the death or removal of the persons to whom they may be made; and the lands thus exempted from the payment of rent, as well as any other lands held by public officers or private servants exempt from rent, in lieu of wages, and not forming part of any authorized lakhiraj grants or tenures, within the provisions of Regulations XXXI. and XXXVI., 1803, shall be considered to form a component part of the malguzary lands of the estates to which they may

respectively appertain, for the revenue assessed upon which they will consequently be held responsible, in common with all other malguzary lands included therein.—Reg. XXV., 1803, sec. xxxii.

186. The lands of some zemindars, independent talookdars, and other actual proprietors of land, having been held khas, or let in farm, in consequence of their refusing to pay the assessment required of them under the proclamation inserted in paragraph 179, the Governor-General in Council notifies to the zemindars, independent talookdars, and other actual proprietors of land, whose lands are held khas, that they shall be restored to the management of their lands, upon their agreeing to the payment of the assessment which shall be required of them, in conformity to the prescribed rules for the settlement of the land revenue; and the Governor-General in Council declares to the zemindars, independent talookdars, and other actual proprietors of land, whose lands have been let in farm, that they shall not regain possession of their lands before the expiration of the period for which they have been farmed (unless the farmers shall voluntarily consent to make over to them the remaining term of their lease, and the Governor-General in Council shall approve of the transfer), but that, at the expiration of that period, upon their agreeing to the payment of the assessment which shall be required of them, they shall be reinstated, under the general regulations in the management of their estates respectively.—Reg. XXV., 1803, sec. xxxiii.

187. It is well known to the zemindars, talookdars, and other descriptions of landholders in the provinces ceded by the Nawaub Vizier to the Honourable the English East-India Company, that from the earliest times until the present period the public assessment upon the lands has never been fixed; and that, according to established usage and custom, the rulers of those provinces, and their delegates, have exercised a discretionary authority in depriving them of the possession of their zemindaries, talooks, and other tenures, whereby their right of property therein has become precarious and of little value, whilst the lands, from being let in farm to strangers, or otherwise disposed of, have been impoverished, and the tenants and cultivators of the soil have been exposed to rapacity and oppression. With a view of promoting the interests of the landholders and to enhance the value of their estates, as well as to induce them to encourage their under-tenants and to extend cultivation, under the certainty that they will enjoy the fruits of their industry and good management, the Governor-General in Council has, by the rules contained in the preceding paragraphs, not only directed a settlement to be immediately made with the zemindars and other proprietors of land who shall be willing to engage for the revenue of their respective estates, but has also declared, that a permanent assessment shall be fixed, at the end of ten years, on such lands as shall be in a state of cultivation sufficiently advanced to render it proper to fix the assessment on the same in perpetuity; and the Governor-General in Council further declares the proprietary rights of all zemindars, talookdars, and other descriptions of landholders possessing a right of property in the lands composing their zemindaries, talooks, or other tenures, to be confirmed and established, under the authority of the British Government, in conformity to the laws and usages of the country, and to the Regulations which have been, or shall be hereafter, enacted by the Governor-General in Council.—Reg. XXV., 1803, sec. xxxiv.

188. To prevent any misconstruction of the declaration contained in the foregoing paragraph the Governor-General in Council deems it to be necessary to publish the following declarations to the zemindars, independent talookdars, and other actual proprietors of land.

*First.* It being the duty of the ruling power to protect all classes of people, and more particularly those who, from their situation, are most helpless, the Governor-General in Council will, whenever he shall deem it proper, enact such Regulations as he shall judge to be necessary, for the protection and welfare of the dependent talookdars, ryots, and other cultivators of the soil; and no zemindar, independent talookdar, or other actual proprietor of land, shall be entitled, on this account, to make any objection to the discharge of the assessment on their lands, which they have respectively agreed, or may hereafter agree, to pay.

*Second.* The Governor-General in Council having abolished all the duties coming under the denomination of sayer, rahdary, zemindary, or any other denomination, levied on goods or merchandise of any description, with the exception of the established duties levied by Government in bazars and gunges; and it being provided by the first clause of the proclamation aforesaid, issued under date the 14th of July, 1802 (paragraph 179), as well as by Clause Thirteenth of paragraph 181, that all engagements for the land revenue entered into with Government shall be exclusive of sayer duties, and of all other collections not connected with the land revenue; the Governor-General in Council hereby declares, that if he should hereafter think it proper to establish any internal duties, and to appoint officers on the part of Government to collect them, no proprietor of land will be admitted to any participation thereof, or be entitled to make any claims for remissions of assessment on that account.

*Third.* The Governor-General in Council will impose such assessment as he shall deem equitable on all lands held exempt from the public revenue, which have been, or shall be proved to be so held under illegal or invalid titles. The assessment thus imposed will belong to Government, and no proprietor of land will be entitled to any part of it.

*Fourth.* The jumma of those zemindars, independent talookdars, and other actual proprietors of land, with whom a settlement shall have been made or shall be hereafter concluded, under the terms set forth in the aforesaid proclamation dated the 14th July, 1802 (paragraph 179), or in paragraph 181, shall be considered exclusive of any allowances which have been made to them in the adjustment of their jumma, for maintaining tannahs or police establishments, and also of the produce of any lands which they may have been permitted to appropriate for the same purpose; and the Governor-General in Council reserves to himself the option of resuming the whole or any part of such allowances, or of the produce of such lands, if he should at any time think it to be proper to exonerate the proprietors of land from the charge of keeping the peace, and to appoint officers on the part of Government to superintend the police of the country. The Governor-General in Council, however, declares that the allowances, or the produce of lands, which may be thus resumed, will be appropriated to no other purpose but that of defraying the expense of the police.—Reg. XXV., 1803, sec. xxxv.

189. That no doubt may be entertained, whether it be lawful for proprietors of land to dispose of their estates without the previous sanction of Government, the Governor-General in Council notifies to the zemindars, independent talookdars, and other actual proprietors of land, that they are at liberty to transfer to whomsoever they may think proper, by sale, gift, or otherwise, their proprietary rights in the whole or any portion of their respective estates, without applying to Government for its sanction to the transfer; and that all such transfers will be held valid, provided that they be conformable to the Mahomedan or the Hindoo laws (according as the religious persuasions of the parties to each transaction may render the validity of it determinable by the former or the latter code), and that they be not repugnant to any Regulations now in force, or which shall be hereafter enacted by the British Government. It is, at the same time, hereby declared, that no private transfer by sale, gift, or otherwise, nor any private mortgage or other assessment upon land assessed with the public revenue, will be admitted, in any respect, to affect the indefeasible right of Government to hold all such lands answerable, in the first instance, for the public revenue assessed thereupon.—Reg. XXV., 1803, sec. xxxvi.

NOTE.—So much of the following rules as relates to the adjustment of the jumma on lands sold in satisfaction of decrees is repealed by sec. 1., Act IV., 1846.

190. Whenever an entire estate (viz., the whole of any landed property, for the assessment on which a distinct engagement has been or shall be entered into between Government and the proprietor, or which shall be separately assessed, although included in one engagement with other estates belonging to the same proprietor) shall be disposed of by public or private sale, without any subdivision of such estate, no new allotment of the jumma will be requisite, and the purchaser will succeed to all the rights of the former proprietor in the entire estate. But it is essential that a declaration should be made of the principles upon which the public assessment or jumma charged upon any such estates will be apportioned on the several divisions of it, in the event of the whole of it being transferred by public or by private sale, or otherwise, in two or more lots, or of a portion of it being transferred in one, or in two or more lots, or of its being joint property, and a division of it being made among the proprietors. The Governor-General in Council has accordingly prescribed the following rules for apportioning the public assessment in the several cases above mentioned; and as Government might sustain a considerable loss of revenue by disproportionate allotments of that assessment, were the apportioning of it, in any of the cases above specified, to be left to the proprietors, it is hereby required, that all such transfers or divisions as may be made by the private act of the parties themselves, be notified to the collector of the revenue of the zillah in which the lands shall be situated, or such other officer as Government shall in future prescribe, in order that the public assessment or jumma charged upon the whole estate may be apportioned on the several shares in the manner hereafter directed, and that the names of the proprietors of each share, and the jumma charged thereon, may be entered in the public registers, and that separate engagements for the payment of the jumma assessed upon each share may be executed by the proprietors, who will thenceforward be considered as proprietors of distinct estates. If the parties concerned in such transfers or divisions of estates shall omit to notify them to the collector of the revenue of the zillah, or such other officer as shall be hereafter prescribed, for the purposes before mentioned, the whole of the original estate will be held responsible to Government for the discharge of the jumma assessed upon it, in the same manner as if no such transfer or division had ever taken place. The Governor-General in Council deems it to be necessary further to notify, in elucidation of the declarations contained in this rule, that if any zemindar, independent talookdar, or other actual proprietor of land, shall dispose of a portion of his or her lands as a dependent talook, or any other under-tenure, to remain as a dependency, subject to the payment of rent to the proprietor of the estate of which such talook may form a part, the jumma which may be stipulated to be paid by the dependent talookdar, or other under-tenant, will not be entered in the records of Government, nor will the transfer exempt such lands from being answerable, in common with the remainder of the estate, for the payment of the public

revenue assessed upon the whole of it, in the event of the proprietor, or his or her heirs or successors, falling in arrear from any cause whatever; nor will such transfer be allowed in any case to affect the rights or claims of Government, any more than if it had never taken place.

*First.* In the event of the whole estate of a zemindar, independent talookdar, or other actual proprietor of land, with or on behalf of whom a settlement has been or shall be concluded, being exposed to public sale, by order of the Governor-General in Council, for the discharge of arrears of the public assessment, *or in consequence of the decision of a court of justice*, in two or more lots, the assessment upon each lot shall be fixed at an amount which shall bear the same proportion to its actual neat produce as the public assessment upon the whole of the lands sold may bear to the whole of their actual neat produce. The neat annual produce is to be understood to be the neat annual rent, or other neat produce receivable by the proprietor after deducting from the gross rent, or other gross produce, the actual expenses of collection, and other usual charges of management, inclusive of the expense of embankments, and similar incidental expenses, where such may be paid by the proprietor from his gross receipts; but exclusive of his malikanah, nankar, or other proprietary income, and all other personal appropriations of the gross produce of his estate, as such can have no claim to consideration in determining the neat produce for an equal division of landed property, or for the allotment of the public assessment thereon, in conformity to the rules prescribed. The neat produce, as here defined, shall be ascertained in the mode that is or shall be prescribed by the Regulations, and the purchaser or purchasers of such lands, and his, her, or their heirs and lawful successors, shall hold them at the jumma at which they may be so purchased, subject to the general rules in force at the time of sale for the periodical or permanent assessment of the land revenue.

*Second.* When a portion of the estate of a zemindar, independent talookdar, or other actual proprietor of land, with or on behalf of whom a settlement has been or shall be concluded, shall be exposed to public sale, by order of the Governor-General in Council, for the liquidation of arrears of assessment, *or pursuant to the decision of a court of justice*, the assessment upon such lands, if disposed of in one lot, shall be fixed at an amount which shall bear the same proportion to their actual neat produce as the assessment upon the whole of the lands of such proprietor, included in the same estate, may bear to the whole of their actual neat produce. If the lands sold should be disposed of in two or more lots, the assessment upon each lot shall be fixed at an amount which shall bear the same proportion to its actual neat produce as the assessment upon the whole of the lands of such proprietor, included in the same estate, may bear to the whole of their actual neat produce. The actual neat produce of the whole of the lands of such proprietor, whether the portion of them which may be sold be disposed of in one, or in two or more lots, shall be ascertained in the mode that is or shall be prescribed by the Regulations; and the purchaser or purchasers of such lands, and his, her, or their heirs or successors, will be allowed to hold them at the jumma at which they may be so purchased, subject to the general rules in force at the time of sale, for the periodical or permanent assessments of the land revenue.

*Third.* When a zemindar, independent talookdar, or other actual proprietor of land, with or on behalf of whom a settlement has been or shall be concluded, shall transfer the whole of his or her estate, in two or more distinct portions, to two or more persons, or a portion thereof to one person, or to two or more persons in joint property, by private sale, gift, or otherwise, the assessment upon each distinct portion of such estate, so transferred, shall be fixed by the collector or other authorized officer of Government, at an amount which shall bear the same proportion to its actual neat produce, as the assessment upon the whole of the estate of the transferring proprietor, of which the whole or a portion may be so transferred, may bear to the whole of its actual neat produce. This produce shall be ascertained in the mode that is or shall be prescribed in the Regulations, and the person or persons to whom such lands may be transferred, and his, or her, or their heirs and lawful successors, shall hold them at the jumma at which they may be so transferred, after the same shall have been duly sanctioned and registered, and engaged for, subject to the general rules in force at the time of transfer, for the periodical or permanent assessment of the land revenue.

*Fourth.* Whenever a division shall be made of lands, the settlement of which has been or shall be concluded with, or on behalf of, the proprietor or proprietors, and that are or may become the joint property of two or more persons, the assessment upon each share shall be fixed by the collector, or other authorized officer of Government, at an amount which shall bear the same proportion to its actual neat produce, as the jumma assessed upon the whole of the estate divided may bear to the whole of its actual neat produce. This produce shall be ascertained in the mode that is or shall be prescribed by the Regulations, and the sharers, and their heirs and lawful successors, shall hold their respective shares at the jumma which may be so assessed upon them, after the same shall have been duly sanctioned, registered, and engaged for, subject to the general rules in force at the time of the division, for the periodical or permanent assessment of the land revenue.—Reg. XXV., 1803, sec. xxxvii.

191. The following rules are prescribed respecting the adjustment of the public assessment or jumma on the lands of zemindars, independent talookdars, and other actual proprietors of land, whose lands are or may be held khas, or let in farm by Government, in the event of their being disposed of by public sale, or transferred by any private act of the proprietor, or of their being joint property, and a division of them taking place amongst the proprietors.

*First.* If the whole, or a portion of the lands of a zemindar, independent talookdar, or other actual proprietor of land, who may not have agreed to the payment of the assessment proposed to him or her, and whose lands are or shall be held khas, or let in farm by Government, shall be exposed to public sale, in one, or in two or more lots, *pursuant to the decree of a court of justice,* such lands, if khas, shall be disposed of at whatever assessment the Governor-General in Council shall deem equitable, and the purchaser or purchasers of such lands, and his, or her, or their heirs and lawful successors, shall hold the lands at the assessment at which they shall be so purchased, subject to the general rules in force at the time of sale, for the periodical or permanent assessment of the land revenue. If the lands, at the time of their being exposed to sale, shall be held in farm, and shall be put up in one, or in two or more lots, they shall be disposed of under the following conditions. The purchaser or purchasers shall receive, during the unexpired part of the term of the lease of the farmer, whatever such proprietor shall have been entitled to receive, in virtue of his or her proprietary rights, on account of the lands so purchased, and such purchaser or purchasers shall, at the expiration of the lease of the farmer, be put in possession of the lands, on his or their engaging to pay such assessment as Government may deem equitable, under the general rules in force for the assessment of the land revenue.

*Second.* If a zemindar, independent talookdar, or other actual proprietor of land, whose lands are or may be held khas, or let in farm by Government, shall transfer, by private sale, gift, or otherwise, the whole or a portion of his or her lands in one, or in two or more lots, and such transfer be legal and valid under the Regulations, the person or persons to whom the lands may be so transferred shall be considered to have succeeded to the whole of the proprietary rights of the former possessor, and will accordingly be entitled to receive any malikanah or nankar to which the former proprietor was entitled on account of the lands so transferred. Persons to whom such lands may be so transferred will stand in the same predicament as the zemindars, independent talookdars, or other actual proprietors of land mentioned in paragraph 186, whose lands are held khas or have been let in farm in consequence of their refusing to pay the assessment required of them under the before-mentioned Regulations for the decennial settlement, and the declarations contained in that rule are to be held applicable to them.

*Third.* In the event of a division being made of lands that are or shall become the joint property of two or more persons, and which are or shall be held khas, or let in farm by Government, the proprietors of the several shares will stand in the same predicament, with regard to their respective shares, as the zemindars, independent talookdars, and other actual proprietors of land specified in paragraph 186, whose lands have been let in farm or are held khas by Government, in consequence of their having refused to pay the assessment required of them, and the declarations contained in that paragraph are to be considered applicable to them.—Reg. XXV., 1803, sec. xxxviii.

192. Nothing in the two preceding paragraphs shall be understood to preclude the revision and correction of allotments of the public assessment upon portions of estates disposed of by public sale or private transfer, or upon the partition of joint estates, in cases of evident error, collusion, or fraud, for which provision has been made by the rules for the sale and division of lands paying revenue to Government; nor shall anything in the foregoing paragraph be construed to authorize the collectors, or any other officers of Government, to determine finally the amount of the public assessment to be allotted upon the portion of an estate, whether publicly or privately disposed of or divided between sharers, without the sanction of the Board of Revenue, as more fully provided for by the Regulation above mentioned.—Reg. XXV., 1803, sec. xxxix.

## CONSTRUCTION OF VARIOUS RULES RELATING TO THE SETTLEMENT.

193. By paragraph 181, respecting the settlement of the ceded provinces, it is enacted that "persons holding claims to lands, for which engagements have been entered into by the present possessors, and who did not prefer their claim to regain possession of the same within six months from the date (as recorded in the several zillahs) of issuing the proclamation by the Board of Commissioners of the 14th of July, 1802, such claimants shall not be entitled to be put in actual possession before the expiration of the first lease of three years, and claims not preferred within the aforesaid period of three years shall not entitle the claimant to regain possession until the expiration of ten years." It is also enacted in Article 4th, Clause Second, paragraph 181, "that persons fulfilling their engagements for the first three years shall have the option of renewing the same for the second period on the prescribed terms, and so on for the third period." Doubts have

in consequence arisen, whether the restrictive clauses thus established in favour of farmers and others, to the exclusion, in certain cases, of the actual proprietors of the lands during the whole decennial term, were intended to apply only "to persons who (according to the terms of the first provision above cited) might not prefer their claims within the aforesaid period of three years," or whether the said restrictions should be considered applicable generally to the proprietors of estates, who, having been for any cause excluded from the management of their lands at the conclusion of the first temporary settlement of the ceded provinces, did not prefer a request within the term of three years to be admitted to the management of their lands at the expiration of that term. It is consequently become necessary to explain by a declaratory Regulation the real intent and meaning of the above provisions, as deducible from the proclamation and instructions published by the Lieutenant-Governor and Board of Commissioners in the ceded provinces, in virtue of powers vested in them for that purpose, and from the tenor of other clauses in the existing Regulations; the following rules have consequently been passed, to be immediately in force in the ceded provinces.—Reg. V., 1808, sec. i.

194. It is hereby declared, that Clause Third, paragraph 181, comprising the substance of instructions issued on the 14th July, 1802, by the Lieutenant-Governor and Board of Commissioners, in virtue of powers vested in them for that purpose, was intended to relate in the first place to the case "where any person, calling himself an actual proprietor of land, should enter into engagements for the same, but it should afterwards appear that another person was the real proprietor and willing to take the land upon the terms of the settlement." In such case, according to the express provisions of the instructions above cited, "the original engagements were to be annulled, and new ones entered into with the real proprietor, who was to be put in immediate possession," provided he preferred his claim within six months from the publication of the proclamation of the same date, as required by a further publication issued in conformity to instructions dated 7th of August, 1802. "In default of which," as declared in the said publication, "the establishing of his right would not entitle the proprietor to be put in possession at any time previous to the expiration of the first lease of three years, during the whole of which lease the lands were in such case to remain in the possession of the person with whom the settlement had been originally made." It was further provided by the said instructions, that "if persons having claims to land did not prefer and prove the same within the period of the first lease of the three years, the persons with whom the existing engagements had been made were to remain in possession until the expiration of the tenth year." The same clause of the paragraph above cited, was intended to relate in the second place to the case of farmers with whom a village settlement should be made (for lands supposed to be without proprietors), under the seventh article of the proclamation, recited in paragraph 179. And in regard to such farmers, it was provided by the instructions aforesaid, that "in like manner and on similar conditions, farmers of villages were to be held liable to be dispossessed, in the event of the actual proprietors proving their right to the land, and of their coming forward to enter into engagements for the same."—Reg. V., 1808, sec. ii.

195. The aforesaid paragraph 181, being expressly declared by paragraph 179 to comprise the substance of the proclamation (instructions) issued by the Lieutenant-Governor and Board of Commissioners on the date above mentioned (14th July, 1802), must be taken and understood according to the tenor and meaning of the said instructions as herein above recited. It is therefore declared, that Article 4th, Clause Second, paragraph 181, together with Clause Third of the said paragraph, so far as they relate to farmers, were intended to apply only to those estates of which a farming or other settlement had been made with persons not being the actual proprietors, on the presumption that the lands in question were not the immediate property of any individuals, or in consequence of persons not really owners of the lands entering into engagements as actual proprietors of the same. It consequently follows, that the restrictions in question were not intended to apply to the cases of persons who, at the conclusion of the original settlement of the ceded provinces, had been acknowledged by the officers of Government as the proprietors of the estates in question, but who had been excluded from the immediate management of the lands, in consequence of their refusal to accede to the jumma proposed to be assessed thereon, as under such acknowledgment those persons could have no further claim to prefer or title to establish. This construction of the rules in question is not only conformable to the clear intent of the instructions issued by the late Board of Commissioners to the Collectors for their guidance in the formation of the settlement of the ceded provinces, and with the principles which have uniformly actuated the Government of concluding the settlement in all practicable cases, and at the earliest period of time, with the proprietors, but likewise with specific enactments in other parts of the existing Regulations. For instance, in paragraph 186, it is enacted as follows:—"The lands of some zemindars, independent talookdars, and other actual proprietors of land, having been held khas or let in farm in consequence of their refusing to pay the assessment required of them under the proclamation inserted in paragraph 179, the Governor-General in

Council notifies to the zemindars, independent talookdars, and other actual proprietors of land whose lands are held khas, that they shall be restored to the management of their lands upon their agreeing to the payment of the assessment which shall be required of them, in conformity to the prescribed rules for the settlement of the land revenue; and the Governor-General in Council declares to the zemindars, independent talookdars, and other actual proprietors of land whose lands have been let in farm, that they shall not regain possession of their lands before the expiration of the period for which they have been farmed (unless the farmers shall voluntarily consent to make over to them the remaining term of their lease and the Governor-General in Council shall approve of the transfer), but that at the expiration of that period, upon their agreeing to the payment of the assessment which shall be required of them, they shall be re-instated, under the general Regulations, in the management of their estates respectively." In like manner, it is enacted in paragraph 202 as follows :—" Nothing contained in this Regulation shall be considered to affect any settlements which shall have been actually concluded for the whole or any part of the ensuing three years, 1213, 1214, and 1215, Fusly; neither shall any part of this Regulation be construed to preclude the operation of the rule prescribed by paragraph 186, under which the zemindars, independent talookdars, and other actual proprietors of land, whose lands have been let in farm, are entitled, at the expiration of the present triennial settlement ending with the year 1212, Fusly, to be reinstated, under the general Regulations prescribed for such cases, in the management of their estates, upon their agreeing to the payment of the assessment required from them." The first of the two rules above cited would have been nugatory and superfluous, had it been intended that the acknowledged proprietors of estates who had been excluded from the immediate management of their estates, should only re-obtain possession on the expiration of the whole of the decennial term, as they would naturally be reinstated in the possession of their lands in the ordinary course on the expiration of that period, without any legislative provision for that purpose in their favour: and paragraph 202, specifically states, in allusion to the former rule, that the zemindars, independent talookdars, and other actual proprietors of land, whose lands have been let to farm, are entitled, at the expiration of the first triennial settlement, to be reinstated in the management of their estates.—Reg. V., 1808, sec. iii.

196. Conformably to the foregoing construction of the existing Regulations, all persons who were acknowledged to be the actual proprietors of estates at the conclusion of the first settlement of the ceded provinces, and were excluded from the immediate management of their lands in consequence of their refusal to accede to the jumma required from them, were justly entitled to be reinstated in possession of their lands at the expiration of the first triennial lease, on their agreeing to the payment of the assessment required of them; and are, in like manner, entitled to the possession and management of their lands, under the same condition, at the expiration of the triennial lease now in force. It is accordingly hereby declared, that they shall be reinstated in the possession and management of their lands at the close of the current Fusly year, on their assenting to the jumma which may now be assessed on their respective estates. No part, however, of this Regulation shall be construed to extend to the case of the claimants of estates in the ceded provinces, whose proprietary right was disputed at the period of the conclusion of the first triennial settlement of those provinces, and who did not establish their claims in a court of justice before the expiration of the first triennial settlement. In all cases of this description, in which the lands were let to farm, the farmers are entitled, under the Regulation above noticed and the conditions of their lease, to the option of renewing the lease for the period of four years from the commencement of the Fusly year 1216, provided that they have hitherto duly fulfilled the conditions of their engagements.—Reg. V., 1808, sec. iv.

## SETTLEMENT FOR 1213, 1214, 1215, FUSLY.

197. The rules contained in the second article of the proclamation published by the Honourable the late Lieutenant-Governor and the Board of Commissioners for the affairs of the provinces ceded by the Nawaub Vizier to the English East-India Company, under date the 14th of July, 1802 (and confirmed, with certain modifications, by Section XXIX., Regulation XXV., and Section LIII., Regulation XXVII., 1803, paragraphs 179, 181), which direct that the second triennial settlement of the land revenue ordered to be concluded in those provinces, and commencing with the year 1213 of the Fusly era, shall be increased in the proportion of two-thirds of the difference between the annual amount of the first triennial settlement concluded for the years 1210, 1211, and 1212, and the actual yearly produce of the land at the period of the expiration of the said settlement, are hereby rescinded; and the following rules are prescribed for concluding the ensuing triennial settlement of the land revenue in the ceded provinces for the years 1213, 1214, and 1215, of the Fusly era.—Reg. V., 1805, sec. ii.

198. In all instances (with the exceptions specified in paragraph 202) in which the zemindars

or other landholders, or the farmers of land, with whom the settlement was concluded for the years 1210, 1211, and 1212, Fusly, or with whom a settlement shall have been concluded at any period of time during those years, shall have fulfilled their engagements with Government, the settlement of their estates or farms for the ensuing three years, 1213, 1214, and 1215, Fusly, shall be concluded with such zemindars, landholders, or farmers, at the same annual jumma as was payable by them under the first triennial or other settlement expiring with the current year 1212, Fusly.—Reg. V., 1805, sec. iii.

199. All zemindars, or other landholders or farmers of land, who shall have obtained remissions from Government on account of drought or other cause, shall be considered to have fulfilled their engagements, provided they shall have discharged the whole amount of the jumma of their respective estates or farms, with the exception of the amount of such authorized remissions. —Reg V., 1805, sec. iv.

200. In instances in which the first triennial settlement for the years 1210, 1211, and 1212, Fusly, shall have been concluded of an annual increase, under the orders of the late Lieutenant-Governor and the Board of Commissioners adverted to in paragraph 180, instead of an equal annual jumma, as prescribed by the original rules for concluding the settlement of the land revenue in the ceded provinces, the ensuing triennial settlement for the years 1213, 1214, and 1215, Fusly, shall be concluded at the jumma payable on account of the current year 1212, Fusly.—Reg. V., 1805, sec. v.

201. If any zemindar, or other landholder or farmer of land, shall decline entering into engagements for the ensuing triennial settlement on the terms prescribed by this Regulation, the Governor-General in Council reserves to himself the power of authorizing the conclusion of the settlement of the lands comprised in the estates or farms of such landholders or farmers for the years 1213, 1214, and 1215, Fusly, or for any proportion of the said period, with any other person or persons who shall be willing to enter into engagements for the payment of the revenue of the said lands.—Reg. V., 1805, sec. vi.

202. Nothing contained in this Regulation shall be considered to affect any settlements which shall have been actually concluded for the whole or any part of the ensuing three years, 1213, 1214, and 1215, Fusly; neither shall any part of this Regulation be construed to preclude the operation of the rule prescribed by paragraph 186, under which the zemindars, independent talookdars, and other actual proprietors of land whose lands have been let in farm, are entitled, at the expiration of the present triennial settlement ending with the year 1212, Fusly, to be reinstated, under the general regulations prescribed for such cases, in the management of their estates, upon their agreeing to the payment of the assessment required from them.—Reg. V., 1805, sec. vii.

## POSTPONEMENT OF THE INTENDED PERMANENT SETTLEMENT.

203. *The provision contained in paragraph* 179 *prescribes that, at the expiration of the existing settlement in the provinces ceded by the Nawab Vizier, a new settlement shall be made for the period of four years. The Governor-General in Council, however, hereby notifies to the zemindars and other actual proprietors of land in the ceded provinces, that the jumma which may be assessed on their estates in the last year of the settlement immediately ensuing the present settlement, shall remain fixed for ever, in case the zemindars shall now be willing to engage for the payment of the public revenue on those terms in perpetuity, and the arrangement shall receive the sanction of the Honourable the Court of Directors.*—Reg. X., 1807, sec. v.

204. Such part of the preceding rule as declares provisionally that the jumma which may be assessed on the estates of the zemindars and other actual proprietors of land in the ceded provinces shall remain fixed for ever, is hereby rescinded.—Reg. IX., 1812, sec. ii.

205. It having been declared in paragraph 179, with reference to the settlement then depending, that at the end of ten years a permanent settlement would be concluded with the same persons (if willing to engage, and if no others having a better claim should come forward), for such lands as might be in a sufficiently improved state of cultivation to warrant the measure, on such terms as Government should deem fair and equitable, the said rule is hereby declared to be in full force and effect.—Reg. IX., 1812, sec. iii.

206. Under the provision contained in the preceding paragraph, it will of course be the duty of the Board of Commissioners to ascertain what estates may be in a state of cultivation to warrant the conclusion of a permanent settlement. In all such cases a revision shall be made of the jumma assessed on the said estates, on the principle of leaving to the proprietors a net income of ten per cent. on the jumma, exclusive of charges of collection; and a settlement shall be concluded with the proprietors, subject of course to the approval of the Governor-General in Council, accordingly. The jumma which may be so fixed on the estates of the zemindars and other actual proprietors of land shall, in conformity to the tenor of the proclamation originally

issued by the late Lieutenant-Governor and Board of Commissioners, and afterwards incorporated into Regulation XXV., 1803, remain fixed for ever.—Reg. IX., 1812, sec. iv.

207. Under the rule contained in paragraph 205, it will likewise be the duty of the Board of Commissioners to submit to the Governor-General in Council a report, specifying the estates which may not appear to be yet in a sufficiently improved state of cultivation to admit of the conclusion of a permanent settlement, without a sacrifice of those resources which may hereafter be derived from them for the exigencies of Government. In all cases of that nature, the Governor-General in Council will determine, on consideration of the information which may be furnished by the Board of Commissioners, whether the settlement of such estates shall be made for the term of three or five years, or for any other period, according as may appear most conducive to the public interests.—Reg. IX., 1812, sec. v.

## SETTLEMENT FROM FUSLY 1224 TO 1229, AND FROM 1229 TO 1234.

208. The existing settlement of the land revenue of the provinces ceded by the Nawaub Vizier to the British Government shall, in all cases in which it may have been concluded with zemindars or other acknowledged proprietors of land, continue in force until the expiration of the year 1229, Fusly, subject to the following provisions.—Reg. XVI., 1816, sec. ii.

209. If the russud, or progressive increase in the jumma, demandable from the zemindars under their engagements on account of the year 1224, Fusly, shall in any case have been remitted with the sanction of Government, the zemindars who may have received such remission shall be deemed entitled to the same indulgence during the ensuing quinquennial settlement.—Reg. XVI., 1816, sec. iii.

210. If any zemindars, who may have entered into engagements for the payment of the public revenue during the existing settlement, shall not be willing to continue to hold their lands on the terms specified in the preceding paragraphs, for a further period of five years, viz., to the expiration of the year 1229, Fusly, they shall notify the same to the collector of the zillah within which their lands may be situated, on or before the 1st March, 1817, corresponding with the 19th Phagoon, 1223, Bengal era; the 27th Phagoon, 1224, Fusly; the 20th Phagoon, 1224, Willaity; the 13th Phagoon, 1873, Sumbut; and the 12th Rubee-us-Sanee, 1232, Hijree.—Reg. XVI., 1816, sec. iv.

211. All zemindars who shall not make a notification to the effect and within the period above mentioned, shall be held and are hereby declared to be responsible for the payment of the same revenue during the ensuing five years, viz., until the expiration of the year 1229, Fusly, as may be specified in their engagements for the year 1224, Fusly; subject, however, to the qualification specified in paragraph 209.—Reg. XVI., 1816, sec. v.

212. With respect to the estates which are at present let to farm, and of which the leases will expire with the Fusly year 1224, the settlement of such mehauls shall be made with the actual proprietors, in all cases in which they may be willing to engage during the years 1225, 1226, 1227, 1228, and 1229, for the payment of an annual jumma equal to the amount payable by the farmers respectively on account of the year 1224, and shall make the necessary application to the collector of the district in which the lands may be situated, or to the Board of Commissioners, on or before the 1st March next.—Reg. XVI., 1816, sec. vi.

213. With respect to lands at present held khas, the settlement of all such lands shall be formed for the years 1225, 1226, 1227, 1228, and 1229, with the zemindars or other actual proprietors of land, supposing such persons to be willing to engage for the payment of the public revenue, on such terms as may appear reasonable.—Reg. XVI., 1816, sec. vii.

214. In cases in which the zemindars may decline to engage for the payment of the revenue demandable from their lands during the ensuing five years, or in which no acknowledged proprietors of the lands may be forthcoming, it will of course be the duty of the revenue authorities to consider whether the lands shall be let to farm, or whether the rents shall be collected directly from the great body of the ryots; or in other words, whether the lands shall be held khas, or whether a settlement shall be formed for the above period of five years for the several villages, with the head ryot, however denominated, of each village respectively.—Reg. XVI., 1816, sec. viii.

215. The existing settlement of the land revenue in the Ceded Provinces, with the exception hereinafter specified, shall, in all cases in which it may have been concluded with zemindars, or persons acknowledged as the proprietors or possessors of a permanent interest in the mehaul for which they have been engaged, continue in force until the expiration of the year 1234, Fusly, subject to the following provisions:—Reg. VII., 1822, sec. ii., cl. 1.

216. The Board of Commissioners in the Ceded and Conquered Provinces, having, under instructions from the Governor-General in Council, caused proclamations to be issued in the several districts under their authority, declaring the resolution of Government to extend the

existing leases as above, and requiring all zemindars and other persons aforesaid, who might be unwilling to continue their engagements for a further period of five years, to notify the same to the collector of the zillah, the said proclamations are hereby sanctioned and confirmed; and all zemindars and other persons aforesaid, who shall not have made a notification to the effect and within the period thereby required, shall be held and are hereby declared to be responsible for the same revenue for each of the ensuing five years, viz., until the expiration of the year 1234, Fusly, as may be demandable from them on account of the present year.—Reg. VIk, 1822, sec. ii., cl. 3.

217. The districts of Goruckpore and Azimgurh are excluded from the operation of the rules contained in the two preceding paragraphs: the zemindars and other persons aforesaid within the said districts shall be allowed to hold, from year to year, the mehauls for which they may now be under engagements, subject to the payment of the jumma demandable on account of the present year, until the revenue officers shall be prepared to commence a careful revision of the settlement of their respective estates; and all engagements into which such zemindars and other persons may have entered, or shall enter, with the local revenue authorities for continuing their present leases as aforesaid, are hereby confirmed.—Reg. VII., 1822, sec. ii., cl. 4.

218. Provided also, that it be hereby declared and enacted as a general rule, that if any zemindar, or other malguzar as aforesaid, who may now or hereafter be under engagement for the payment of the revenue demandable by Government on account of any mehaul, shall be allowed by the revenue authorities to continue in the management of such mehaul after the expiration of such engagement, and shall do or direct any act relative to the cultivation or management of such mehaul, or the settlement, assessment, or collection of the rents of such mehaul, in or on account of any year subsequent to the term of such engagement, such zemindar or other malguzar aforesaid shall be held to be responsible on account of such year for the same revenue as may have been demandable from him for the year preceding, unless otherwise specially agreed upon: provided further, that it shall be competent for collectors, or other officers exercising the power of collectors, with the sanction of the Board, or commissioner to whom they may be subordinate, at any time, not being more than six months previous to the expiration of a settlement, to call upon the zemindars, or other malguzars as aforesaid, to declare whether or not they are willing to continue their engagements for the ensuing year; and if such zemindars or other malguzars shall not forthwith notify their refusal to do so, they shall be held to have agreed to such an extension of their leases at the existing assessment, and so on, from year to year, as aforesaid. Zemindars or other malguzars who may be allowed to hold on from year to year, shall not be chargeable with any additional revenue on account of any year, unless the collector, or other officer exercising the powers of collector, shall notify his intention to revise the assessment on or before the commencement of such year, unless where otherwise specially provided.—Reg. VII., 1822, sec. ii., cl. 6.

## SETTLEMENT FROM 1235 TO 1239, FUSLY.

219. The existing settlement in the Ceded Provinces (with the exceptions and subject to the provisions hereinafter stated) shall be extended to a further period of five years, viz., for the years 1235 to 1239, Fusly, inclusive, in cases in which it may have been concluded with zemindars, lumberdars, or other persons recorded as the proprietors or possessors of a permanent interest in the mehaul for which they may have engaged, or as the representatives of such persons.—Reg. II., 1826, sec. ii. cl. 1.

220. If any zemindars and other persons aforesaid shall be unwilling to continue their engagements for a further period of five years, on the terms specified in this Regulation, they shall notify the same to the collector, or other officer exercising the powers of the collector, to whom they may be subject, on or before the 31st July next, corresponding with the 12th Sawun, 1233, Fusly era. And all zemindars and other persons aforesaid, who shall not make a notification to the effect, and within the period above mentioned, shall be held and are hereby declared to be responsible for the payment of the same revenue for each of the five years subsequent to the settlement now in force, viz., for the years 1235 to 1239, inclusive, as may be specified in their engagements for the year 1234, Fusly. And in such cases no alteration shall be made in the jumma demandable by Government on account of the mehauls held by such persons (excepting as hereinafter excepted) until the expiration of the said period of five years.—Reg. II., 1826, sec. ii., cl. 2.

221. The above rules shall not apply to the districts of Goruckpore and Azimgurh, for which special provision was made by paragraph 213; nor shall they be held in any district to affect the terms of any engagements which may have been specifically entered into on account of any year or years subsequent to the general settlement now in force.—Reg. II., 1826, sec. ii., cl. 3.

222. It shall be competent to collectors, and other officers exercising the powers of collectors, subject to the orders of the Board of Revenue to which they may be subordinate, to exclude from

the operation of the preceding rules any mehful or mehauls of which a revised settlement may have been made, or be about to be made, under the rules of Regulation VII., 1822, or in regard to which there may, in the judgment of these authorities, exist any special reasons for effecting an early resettlement of the same; and in the case of mehauls of the last description, it shall be competent to the collectors, or other officers aforesaid, to make an immediate resettlement of the same on the expiration of the existing leases; or to grant to the persons under engagements renewed leases for such further term (not exceeding five years) as the Board may direct. Provided, however, that in all cases in which it may be determined to adopt special measures as above in regard to any mehaul or mehauls, the collector, or other officer aforesaid, shall give notice of such determination in writing to the person under engagements for the same, on or before the 1st of March, 1827. A perwannah delivered to or left at the usual residence of the malguzar, or a notification stuck up, under orders of the collector, in any conspicuous place within the mehaul, shall be held to be sufficient notice for the above purpose.—Reg. II., 1826, sec. ii., cl. 4.

223. Zemindars and other persons as aforesaid, whose engagements shall be continued for a further period of five years as above provided, as well as all other persons who may hereafter enter into engagements as proprietors, or as the representatives of proprietors, shall, after the expiration of the leases so extended or granted, hold the mehauls for which they may have engaged or may hereafter engage, and shall continue to be subject to the payment of the same annual jumma as may be chargeable on account of the last year of their lease, until the collector, or other officer exercising the powers of collector, shall effect a detailed revision of the settlement in the mode prescribed by Regulation VII., 1822, or shall be otherwise specially authorized by Government to make a fresh assessment: provided also, that no zemindar, or other malguzar as aforesaid, shall be liable to pay on account of any year a higher jumma than that payable under the above rule, unless he shall have been apprized of the Board's approval of the new assessment on or before the month of Jeth preceding; nor shall any such zemindar or other malguzar be ousted from the management of any mehaul for which he may be under engagements without such notice, except by due course of law, on a decision in favour of the title of another party claiming the property of the same.—Reg. II., 1826, sec. iii.

224. With respect to estates which are at present let to farm, a settlement thereof shall be made on the expiration of the existing leases, for such a period as the Governor-General in Council may direct; a preference shall be given to the zemindars or other persons possessing a permanent property in the mehauls, if willing to engage for the payment of the public revenue on reasonable terms; provided also, that in cases wherein such mehauls may be let in farm, the term of the lease granted to the farmers shall not, excepting as hereinafter excepted, exceed twelve years. The above rules shall likewise be applicable to estates now held khas; so in any case wherein the zemindars and other proprietors may refuse to continue their existing engagements on equitable terms, it shall be competent to the revenue authorities to let the lands in farm for such period (with the restriction herein specified) as the Governor-General in Council shall appoint, or to assume the direct management of them, and to retain them under khas management during the period aforesaid, or such shorter period as may be judged proper; provided also, that in cases wherein it shall appear that the zemindars have wilfully reduced the cultivation of their lands, or otherwise deteriorated the mehaul under their management or in their occupancy, it shall be competent to the revenue authorities to exclude persons so offending, and to let the lands in farm for a period of fifteen years. Leases for a like period may also be granted to zemindars and farmers in cases where, from special local circumstances, the measure may appear necessary, with a view to the reclaiming of waste, the construction of works requisite for the extension of cultivation, or otherwise for the improvement of the country.—Reg. II., 1826, sec. iv.

# CONQUERED PROVINCES.

## SETTLEMENT.

225. The following articles of a proclamation which is hereby addressed by the Governor-General in Council to the zemindars, independent talookdars, and other actual proprietors of land paying revenue to Government, in the conquered provinces situated within the Dooab (or country lying between the rivers Ganges and Jumna), and on the right bank of the river Jumna, ceded to the Honourable the English East-India Company by Dowlut Rao Scindiah; and in the territory situated in Bundlecund on the right bank of the river Jumna, ceded to the Honourable the English East-India Company by the Peshwa; are enacted into a Regulation.—Reg. IX., 1805, sec. i.

### PROCLAMATION.

226. "ART. I. Whereas, by Regulation IX., 1804, and Regulation VIII., 1805, the laws and regulations established by the British Government for the internal administration of the provinces ceded to the Honourable the English East-India Company by the Nawaub Vizier have been extended, with such modifications and qualifications as were deemed necessary, to the conquered provinces situated within the Dooab and on the right bank of the river Jumna, ceded to the Honourable the English East-India Company by Dowlut Rao Scindiah; and to the territory in Bundlecund, situated on the right bank of the river Jumna, ceded to the Honourable the English East-India Company by the Peshwa: And whereas it is the intention of the British Government, at the expiration of the current year 1212, Fusly, to adopt a plan for the settlement of the land revenue in the said territories upon principles of moderation and justice: And whereas it is of importance that the terms and conditions of such settlement should be made known throughout the territories aforesaid as early as may be practicable: And whereas it is essential to the security of the rights and interests of the zemindars and other landholders in the said territories, that the nature of their right of property in their respective estates, under the terms and conditions hereafter recited, should be publicly acknowledged and declared, it is accordingly hereby proclaimed as follows:—Reg. IX., 1805, sec. ii.

227. "Art. II. At the commencement of the year 1213, Fusly, the sayer of every denomination will be separated from the mâl, or land revenue; and a settlement will be concluded for the land revenue only, in all practicable cases, with the zemindars or other actual proprietors of the soil (unless when disqualified by notoriously bad character or other good and sufficient cause), for a period of three years, viz., for the years 1213, 1214, and 1215, Fusly (with the exception specified in the Fifth Article), at a fixed, equal, annual jumma; it being understood that such zemindars as are huzoor tehseel, or allowed to pay their kists immediately to the collector of the zillah, shall be responsible for maintaining the police of their respective zemindaries, with the exception of the police in cities, large towns, and principal gunges, the expense of which will be defrayed by Government. In instances, however, in which, from calamity of season or other good and sufficient cause, any landholder may be unwilling to engage for his lands at such a jumma, for the first year of the lease, as Government would otherwise be entitled to demand, with a reference to the probable resources and produce of the lands during the whole of the lease, the settlement will be concluded for the first lease of three years at a fair and equitable annual increase, instead of a fixed, equal, annual jumma. The cabooleats executed by zemindars and other actual proprietors of land, or farmers of land, shall contain a clause restricting them from collecting sayer duties, or any duties whatever, in their respective estates or farms. The collectors are required to explain fully the nature and extent of this restriction, in order that persons desirous of entering into engagements may regulate their proposals accordingly. No settlement shall be considered final, until it shall have received the sanction of the Governor-General in Council.—Reg. IX., 1805, sec. iii.

228. "ART. III. At the expiration of the three years specified in the foregoing article, another settlement will be concluded with the same persons (if willing to engage) for a further period of three years, viz., for the years 1216, 1217, and 1218, Fusly (with the exception specified in the Fifth Article), at a fixed, equal, annual jumma, which jumma shall be formed by taking the difference between the annual amount of the first lease and the actual yearly produce of the land at the time of its expiration, and adding two-thirds of such difference to the annual rent of the first lease.—Reg. IX., 1805, sec. iv.

229. "ART. IV. At the expiration of the year 1218, Fusly, a new settlement will be concluded with the same persons (if willing to engage) for a further period of four years, viz., for the years

1219, 1220, 1221, and 1222, Fusly (with the exception specified in the Fifth Article), at a fixed equal annual jumma; which jumma shall be formed by adding to the annual rent of the second three years three-fourths of the net increase of revenue during any one year of that period.—Reg. IX., 1805, sec. v.

230. "ART. V. The settlement of the land revenue in the territory in Bundlecund, ceded to the Honourable the English East-India Company by the Peshwa, to be formed at the commencement of the year 1213, Fusly, will be concluded for one year only, in the first instance, under the general rules notified in this proclamation. The three succeeding settlements of the land revenue in the territory aforesaid will be concluded for the following periods of time: first, for the years 1214, 1215, and 1216, Fusly; secondly, for the years 1217, 1218, and 1219, Fusly; and thirdly, for the years 1220, 1221, and 1222, Fusly; under the terms and conditions specified in this proclamation.—Reg. IX., 1805, sec. vi.

231. "ART. VI. At the end of the ten years expiring with the year 1222, Fusly, a permanent settlement will be concluded with the same persons (if willing to engage, and if no other persons having a better claim shall come forward), for such lands as may be in a sufficiently improved state of cultivation to warrant the measure, on such terms as Government shall deem fair and equitable.—Reg. IX., 1805, sec. vii.

NOTE.—See sec. v. Reg. X., 1807; and Reg. X., 1812.

232. "ART. VII. Those zemindars who may decline entering into engagements for their estates, as also those zemindars whose offers may be rejected by Government, shall for the present be allowed the same nankar which they have hitherto received from the ruling power for the time being; provided the rate of such nankar shall not, in either of the cases above stated, exceed ten per cent. on the jumma of the estate.—Reg. IX., 1805, sec. viii.

NOTE.—See sec. v., Reg. VII., 1822; and sec. xi., Reg. IX., 1833.

233. "ART. VIII. With respect to such zemindaries as may have been mortgaged or transferred on security, and possession thereof actually given, to the mortgagees or sureties, the settlement will be made with the person in possession of the land, as the temporary representative of the proprietor, leaving the latter to obtain possession, either by a private settlement of accounts or by a judicial process.—Reg. IX., 1805, sec. ix.

234. "ART. IX. The settlement of such small talooks or estates as may be only nominally included in large zemindaries, in the sudder jumma of which their jumma may be comprehended, will be made separately and distinctly with the proprietors of such small estates; and they will be allowed to pay their revenue directly to the tehseeldars on the part of Government, or to the collector of the zillah, as may be deemed advisable; provided, however, that the talookdars or proprietors of such small talooks or estates shall be desirous of the separation, or the zemindars shall require it. In the event of a zemindar considering himself aggrieved by a separation made in conformity to the foregoing rule, or of a talookdar being dissatisfied at not being separated from a zemindary agreeably to what he may have considered as his right, in either case, the party considering himself aggrieved will be at liberty to seek redress in the courts of justice. The collectors, however, shall not allow any disputed claims to interfere with or delay the immediate conclusion of the settlement, which, in all doubtful cases, shall be made with the person in possession.—Reg. IX., 1805, sec. x.

235. "ART. X. With respect to such lands as are without proprietors, or the proprietors of which may decline entering into engagements, a village settlement shall be concluded for three years from the commencement of the year 1213, or the year 1214, Fusly, according as the settlement may be concluded in the provinces ceded by Dowlut Rao Scindiah, or in the territory ceded by the Peshwa, at a fixed equal annual jumma; with the reservation contained in the concluding part of the second article relative to forming the settlement, in certain cases, at an annual increase. In instances in which a village settlement shall be concluded in Bundlecund at the commencement of the year 1213, Fusly, such settlement shall be formed only for one year. In all cases of the description mentioned in this article, a preference will be given to the mokuddums, purdhauns, or respectable ryots of the several villages.—Reg. IX., 1805, sec. xi.

236. "ART. XI. In instances in which neither proprietors nor farmers shall be forthcoming, or in which they shall not tender suitable conditions of agreement, a khas or bowlee settlement shall be concluded with the ryots for lands in such predicament, stipulating the shares to be received by the ryots from the different descriptions of land, as follows: in politch lands, or such as are in full cultivation, Government shall receive five pusserees and the ryot three pusserees: in chunchur lands, or such as have not been cultivated for two or three years, Government shall receive two, and the ryot six pusserees: in bunjur, or waste lands, Government shall receive one, and the ryot seven pusserees. Chunchur lands after one year, and bunjur lands after two years, shall be considered equal to politch. Bunjur lands after one year shall be considered equal to

chunchur. In khas settlements, the bhaint or nuzzerana shall be abolished. The wages of the putwarries shall be paid by the ryots; but the expense of the mussahut, or measuring and valuing the crops, shall be defrayed by Government, in consideration of the additional pusseree received out of the politch crop. In all cases when crops are valued, the valuation shall be determined by the price-current of the day. In khas settlements, the ryots shall engage that the cultivation of the lands shall not fall off, and that they shall not undertake the cultivation of new lands until they have accomplished that of the land already engaged for by them.—Reg. IX., 1805, sec. xii.

237. "Art. XII. All authorized abwaubs shall be consolidated and incorporated with the land rent, and expressed in the pottahs and caboolcats; and nothing but what is there expressed shall be collected from the ryots or under-renters.—Reg. IX., 1805, sec. xiii.

238. "Art. XIII. All persons who may enter into engagements for the settlement shall bind themselves, by written obligations, to grant pottahs of the above description to their ryots and under-renters of every description, specifying the amount to be paid by such ryots and under-renters respectively; and counter engagements shall be executed by the ryots and under-renters of a similar tenour and purport.—Reg. IX., 1805, sec. xiv.

239. "Art. XIV. All persons who may enter into engagements with Government shall previously give security for the fulfilment thereof, in an amount equal to one-fourth of their annual jumma.—Reg. IX., 1805, sec. xv.

240. "Art. XV. In concluding the settlement of the land revenue in the territories mentioned in this proclamation, at the commencement of the year 1213, Fusly, the allowance of nankar to such of the zemindars as may engage for their lands shall be regulated by deducting the amount of the nankar from the jumma, and taking engagements from the zemindars for the neat residue; provided that the deduction for nankar shall not, in any instance, exceed ten per cent. on the neat jumma.—Reg. IX., 1805, sec. xvi.

Note.—See sec. v., Reg. VII., 1822; and sec. xi., Reg. IX., 1833.

241. "Art. XVI. Persons having claims to lands for which engagements have been entered into with the present possessors, and who shall not prefer their claim to regain possession of the same within six months from the date (as recorded in the respective zillahs) of issuing this proclamation, shall not be entitled to be restored to the actual possession of such lands before the expiration of the year 1213, Fusly, if the lands are situated in the zillah of Bundlecund; or before the expiration of the first triennial lease ending with the year 1215, Fusly, if the lands are situated in the zillah of Allyghur, the northern or southern division of the zillah of Saharunpore, or the zillah of Agra. Persons preferring such claims in the zillah of Bundlecund after the expiration of the year 1213, Fusly, and before the conclusion of the first triennial lease in that zillah ending with the year 1216, Fusly, shall not be entitled to regain possession of the lands claimed by them until such lease shall expire. Persons who shall not prefer their claims before the expiration of the first lease of three years (that is to say, before the commencement of the year 1216, Fusly, in the zillah of Allyghur, the northern or southern division of the zillah of Saharunpore, or the zillah of Agra, or before the commencement of the year 1217, Fusly, in the zillah of Bundlecund) shall not be entitled to regain possession of the lands claimed by them, until the expiration of the ten years, or the commencement of the year 1223, Fusly. But this rule shall not be considered to restrict persons from preferring their claims at any time within the ten years.—Reg. IX., 1805, sec. xvii.

242. "Art. XVII. In instances in which a collector shall judge it to be inexpedient to conclude a settlement with a zemindar, he shall hold proceedings on the subject, detailing at large his reasons for rejecting the claim, with whatever information he may have obtained respecting such zemindar; at the same time receiving the zemindar's answer to the objections urged to his claim. The collector shall then transmit the whole of his proceedings to the Board of Revenue, and shall await their determination thereon.—Reg. IX., 1805, sec. xviii.

243. "Art. XVIII. The collectors shall not, in any instance, intrust the settlement or the collection of the revenues of a considerable zemindary to a tehseeldar. The settlement of all zemindaries of the above description shall be concluded immediately by the collectors, to whom the revenue of such zemindaries shall also be immediately paid. In like manner, the collectors shall conclude the settlement, and receive immediately into their respective treasuries the collections of all other lands which they can bring under their immediate superintendence, without detriment to their general avocations.—Reg. IX., 1805, sec. xix.

244. "Art. XIX. In instances in which lands to a considerable amount shall be let in farm to one individual, and Government shall be of opinion, from the report of the Board of Revenue, that the other avocations of the collector will admit of the measure, the rent of such farm shall be paid immediately into the treasury of the collector, instead of being received through the channel of a tehseeldar.—Reg. IX., 1805, sec. xx.

245. "Art. XX. With the view of obviating any misconstruction of the rule to be adopted in

adding to the jumma a portion of the increased produce, in concluding the settlements to be formed at the commencement of the Fusly years 1216 and 1219, or 1217 and 1220 (according as the settlements shall be concluded in the provinces ceded by Dowlut Rao Scindiah, or in the territory ceded by the Peshwa), it is hereby declared, in explanation of the Third and Fourth Articles of this Proclamation, that the amount of the nankar to which the zemindars will be entitled, conformably to the engagements entered into by them under this proclamation, shall be deducted from the actual yearly produce of their estates at the time of the expiration of each lease; and the actual increase of public revenue, to be assessed agreeably to the articles above specified, shall be calculated on the amount of the difference between the actual net produce after such deduction and the annual amount of the former lease. It is at the same time declared, that the portion of the increased produce relinquished to the zemindars under the above-mentioned articles on the formation of the successive settlements shall be considered as precluding all claim, on the part of the zemindars, to any further proportion of such increased produce on account of nankar, in addition to the deduction which will be made and continued to them on this account.—Reg. IX., 1805, sec. xxi.

246. "Art. XXI. A discretionary power is vested in the landholders to grant small portions of land, exempt from the payment of revenue, for the support of their village watchmen, whenever they shall prefer making such grants to paying the watchmen a pecuniary allowance. Such grants, however, shall be resumable on the death or removal of the persons to whom they may be made; and the lands thus exempted from the payment of rent, as well as any other lands held by public officers or private servants exempt from rent in lieu of wages, and not forming part of any authorized la-khiraj grants or tenures, within the provisions of Regulations XXXI. and XXXVI., 1803, shall be considered to form a component part of the malguzary lands of the estates to which they may respectively appertain, for the revenue assessed upon which they will consequently be held responsible, in common with other malguzary lands included therein.—Reg. IX., 1805, sec. xxii.

247. "Art. XXII. The Governor-General in Council hereby notifies to those zemindars, independent talookdars, and other actual proprietors of land whose lands may be held khas or let in farm, in consequence of their refusing to pay the assessment required of them under this proclamation, that the zemindars, independent talookdars, and other actual proprietors of land whose lands may be held khas, shall be restored to the management of their lands, upon their agreeing to the payment of the assessment which shall be required of them in conformity to the prescribed rules for the settlement of the land revenue; and that the zemindars, independent talookdars, and other actual proprietors of land whose lands may be let in farm, shall not regain possession of their lands before the expiration of the period for which they may be farmed (unless the farmers shall voluntarily consent to make over to them the remaining term of their lease, and the Governor-General in Council shall approve of the transfer); but that at the expiration of that period, upon their agreeing to the payment of the assessment which shall be required of them, they shall be reinstated, under the general Regulations, in the management of their estates respectively.—Reg. IX., 1805, sec. xxiii.

248. "Art. XXIII. It is well known to the zemindars, talookdars, and other descriptions of landholders in the provinces situated in the Dooab and the right bank of the river Jumna, which have been ceded to the Honourable the English East-India Company by Dowlut Rao Scindiah and the Peshwa, that from the earliest times until the present period the public assessment upon the lands has never been fixed; and that, according to established usage and custom, the rulers of those territories and their delegates have exercised a discretionary and despotic authority, in depriving them of the possession of their zemindaries, talooks, and other tenures, whereby their right of property therein has become precarious and of little value; whilst the lands, from being let in farm to strangers or otherwise disposed of, have been impoverished, and the tenants and cultivators of the soil have been exposed to rapacity and oppression. With a view of promoting the interests of the landholders and to enhance the value of their estates, as well as to induce them to encourage their under-tenants and to extend cultivation, under the certainty that they will enjoy the fruits of their industry and good management, the Governor-General in Council has, by the rules contained in the preceding articles of this proclamation, not only directed a settlement to be immediately made with the zemindars and other proprietors of land who shall be willing to engage for the revenue of their respective estates, but has also declared that a permanent assessment shall be fixed at the end of ten years, on such lands as shall be in a state of cultivation sufficiently advanced to render it proper to fix the assessment on the same in perpetuity; and the Governor-General in Council further declares the proprietary rights of all zemindars, talookdars, and other descriptions of landholders possessing a right of property in the lands composing their zemindaries, talooks, or other tenures, to be confirmed and established under the authority of the British Government, in conformity to the laws and usages of the country, and to the Regulations which have been, or shall be hereafter enacted by the Governor-General in Council.—Reg. IX., 1805, sec. xxiv.

249. "ART. XXIV. To prevent any misconstruction of the declaration contained in the foregoing article, the Governor-General in Council deems it to be necessary to publish the following declarations to the zemindars, independent talookdars, and other actual proprietors of land.

"*First.* It being the duty of the ruling power to protect all classes of people, and more particularly those who, from their situation, are most helpless, the Governor-General in Council will, whenever he shall deem it proper, enact such Regulations as he shall judge to be necessary for the protection and welfare of the dependent talookdars, ryots, and other cultivators of the soil; and no zemindar, independent talookdar, or other actual proprietor of land, shall be entitled, on this account, to make any objection to the discharge of the assessment on their lands which they have respectively agreed, or may hereafter agree to pay.

"*Second.* The Governor-General in Council having abolished all the duties coming under the denomination of sayer, rahdary, zemindary, or any other denomination, levied on goods or merchandise of any description, with the exception of the established duties levied by Government in bazars and gunges, which duties have been since abolished; and it being provided by the second article of this proclamation, that all engagements for the land revenue entered into with Government shall be exclusive of sayer duties, and of all other collections not connected with the land revenue, the Governor-General in Council hereby declares, that if he should hereafter think it proper to establish any internal duties, and to appoint officers on the part of Government to collect them, no proprietor of land will be admitted to any participation thereof, or be entitled to make any claims for remissions of assessment on that account.

"*Third.* The Governor-General in Council will impose such assessment as he shall deem equitable on all lands held exempt from the public revenue, which have been or shall be proved to be so held under illegal or invalid titles. The assessment thus imposed will belong to Government, and no proprietor of land will be entitled to any part of it.

"*Fourth.* The jumma of those zemindars, independent talookdars, and other actual proprietors of land, with whom a settlement shall be concluded under the terms set forth in the present proclamation, shall be considered exclusive of any allowances which may be made to them in the adjustment of their jumma, for maintaining thannahs or police establishments, and also of the produce of any lands which they may be permitted to appropriate for the same purpose; and the Governor-General in Council reserves to himself the option of resuming the whole or any part of such allowances, or of the produce of such lands, if he should at any time think it to be proper to exonerate the proprietors of land from the charge of keeping the peace, and to appoint officers on the part of Government to superintend the police of the country. The Governor-General in Council, however, declares that the allowances, or the produce of lands, which may be thus resumed, will be appropriated to no other purpose but that of defraying the expense of the police. —Reg. IX., 1805, sec. xxv.

250. "ART. XXV. That no doubt may be entertained whether it be lawful for proprietors of land to dispose of their estates without the previous sanction of Government, the Governor-General in Council notifies to the zemindars, independent talookdars, and other actual proprietors of land, that they are at liberty to transfer to whomsoever they may think proper, by sale, gift, or otherwise, their proprietary rights in the whole or any portion of their respective estates, without applying to Government for its sanction to the transfer; and that all such transfers will be held valid, provided that they be conformable to the Mahomedan or the Hindoo laws (according as the religious persuasions of the parties to each transaction may render the validity of it determinable by the former or the latter code), and that they be not repugnant to any Regulations now in force, or which shall be hereafter enacted by the British Government. It is at the same time hereby declared, that no private transfer by sale, gift, or otherwise, nor any private mortgage or other assessment upon land assessed with the public revenue, will be admitted in any respect to affect the indefeasible right of Government to hold all such lands answerable, in the first instance, for the public revenue assessed thereupon.—Reg. IX., 1805, sec. xxvi.

251. Sec. xxvii., Reg. IX., 1805.—*Same as the rule for the ceded provinces in sec. xxxvii., Reg. XXV.*, 1803, *paragraph* 190.

252. Sec. xxviii., Reg. IX., 1805.—*Same as sec. xxxviii., Reg. XXV.*, 1803, *paragraph* 191.

253. Sec. xxix., Reg. IX., 1805.—*Same as sec. xxxix., Reg. XXV.*, 1803, *paragraph* 192.

## POSTONEMENT OF THE INTENDED PERMANENT SETTLEMENT.

254. *The rules contained in paragraphs* 224 *and* 225, *require that at the expiration of the existing settlement in the conquered provinces and in the zillah of Bundlecund, two more temporary settlements shall be made in the said conquered provinces and in the zillah of Bundlecund respectively. The Governor-General in Council, however, hereby notifies to the zemindars and other actual proprietors of land in the conquered provinces, that the jumma which may be assessed on their*

*estates in the last-year of the settlement immediately ensuing the present settlement, shall remain fixed for ever, in case the zemindars shall now be willing to engage for the payment of the public revenue on those terms in perpetuity, and the arrangement shall receive the sanction of the Honourable the Court of Directors*—Reg XI, 1807, sec v

255 Such parts of the preceding rule as declare provisionally that the jumma which may be assessed on the estates of the zemindars and other actual proprietors of lands in the above-mentioned territories shall remain fixed for ever, is hereby rescinded—Reg X, 1812, sec ii

256 It having been declared in paragraph 231, with reference to the settlement then depending, that at the end of ten years, that is, at the expiration of the Fusly year 1222, a permanent settlement would be concluded with the same persons (if willing to engage, and if no others having a better claim should come forward), for such lands as might be in a sufficiently improved state of cultivation to warrant the measure, on such terms as Government should deem fair and equitable, the said rule is hereby declared to be in full force and effect—Reg X., 1812, sec. iii

257. Under the provision contained in the preceding rule, it will, of course, be the duty of the Board of Commissioners to ascertain, previously to the expiration of the year 1222, what estates may be in a state of cultivation, to warrant the conclusion of a permanent settlement In all such cases, a revision shall be made of the jumma assessed on the said estates, on the principle of leaving to the proprietors a net income of ten per cent on the jumma, exclusive of charges of collection, and a settlement shall be concluded with the proprietors, subject of course to the approval of the Governor-General in Council, accordingly The jumma which may be so fixed on the estates of the zemindars and other actual proprietors of land shall, in conformity to the tenor of the proclamations originally issued, and afterwards incorporated into Regulation IX, 1805, remain fixed for ever—Reg X, 1812, sec iv

258 Under the rule contained in paragraph 256, it will likewise be the duty of the Board of Commissioners to submit to the Governor-General in Council a report, specifying the estates which may not appear to be yet in a sufficiently improved state of cultivation to admit of the conclusion of a permanent settlement, without a sacrifice of those resources which may hereafter be derived from them for the exigencies of Government In all cases of that nature, the Governor-General in Council will determine, on consideration of the information which may be furnished by the Board of Commissioners, whether the settlement of such estates shall be made for the term of three or five years, or for any other period, according as may appear most conducive to the public interests—Reg X, 1812, sec v

## SETTLEMENT FROM 1227 TO 1232, FUSLY

259 The existing settlement of the land revenue in the Conquered Provinces lying on the right and left banks of the river Jumna, with the exception of the southern division of the district of Seharunpore, and in the territory ceded to the British Government by his Highness the Peshwa in Bundlecund, shall in all cases in which it may have been concluded with zemindars or other acknowledged proprietors of land, continue in force until the expiration of the year 1232, Fusly, subject to the following provisions—Reg IX, 1818, sec ii, cl. 1

260 If any proprietors of estates within the said provinces and territory (with the exception of the tract of country aforesaid), who may have entered into engagements for the payment of the public revenue during the existing settlement, shall not be willing to continue to hold their lands on the terms specified in the preceding rule, for a further period of five years, viz, to the expiration of the year 1232, Fusly, they shall notify the same to the collector of the zillah within which the lands may be situated, on or before the 1st July, 1819.—Reg IX, 1818, sec ii, cl 2

261 All such zemindars who shall not make a notification to the effect and within the period above mentioned, shall be held and are hereby declared to be responsible for the payment of the same revenue during the five years subsequent to the settlement now in formation, viz, until the expiration of the year 1232, Fusly, as may be specified in their engagements for the year 1227, Fusly—Reg IX, 1818, sec ii, cl 3

262 With respect to estates which are at present let to farm, and of which the leases will expire with the Fusly year 1227, the settlement of such mehauls shall be made with the actual proprietors, in all cases in which they may be willing to engage, during the years 1228, 1229, 1230, 1231, and 1232, for the payment of an annual jumma, equal to the amount payable by the farmers respectively on account of the year 1227, and shall make the necessary application to the collector of the district in which the lands may be situated, or to the Board of Commissioners, on or before the 1st January, 1820—Reg IX, 1818, sec iii

263. In cases in which the proprietors of estates may decline to engage for the payment of the revenue demandable from their lands, during the years 1228, 1229, 1230, 1231, and 1232, or in which no acknowledged proprietors may be forthcoming, it will be the duty of the revenue autho-

rities to take timely measures for ascertaining the assets of the estates, preparatory to the arrangements to be made for the above period, and it shall be competent in such cases to the said authorities, either to let the lands in farm for that period, or to assume the direct management of them.—Reg. IX., 1818, sec. iv.

264. The under-mentioned pergunnahs, forming the southern division of the district of Seharunpore, are excluded from the operation of the rules contained in the preceding paragraphs; and on the expiration of the present settlement of the said pergunnahs, a new settlement shall be made for a term of five years; provided, however, that in any cases in which the proprietors of estates shall be desirous, previously to the expiration of the present settlement, of entering into engagements, at an adequate jumma, for the years 1228, 1229, 1230, 1231, and 1232, F.S., and the revenue authorities shall possess, in regard to such mehauls, the information necessary to an assessment on proper principles, it shall be competent to the Board of Commissioners, at any time after the promulgation of this Regulation, to direct a settlement to be concluded with such proprietors for the period aforesaid, viz., for the years 1228, 1229, 1230, 1231, and 1232, F.S., subject to the confirmation of Government.

Pergunnahs referred to in the above rule:—

| | | |
|---|---|---|
| Ajrara, | Julalabad, | Shuckurpore, |
| Baughput, | Kandlah, | Sorohee, |
| Bhojepore, | Keranah, | Sumbulheree, |
| Bhooma, | Khatowlee, | Surrawah, |
| Bugra, | Lalookheree, | Tandah, |
| Chuprowlee, | Loney, | Tarrapore, |
| Dadree, | Meerut, | Tekuree, |
| Dasnah, | Nelohah, | Teturwarra, |
| Gungaroo, | Phookanah, | Pooth, |
| Gurhmooktasur, | Shekarpore, | Seeana, |
| Hawpore, | Shamlee, | Thana Fureeda. |
| Jowley, | | |

—Reg. IX., 1818, sec. v.

## SETTLEMENT FROM 1233 TO 1237, FUSLY.

265. The existing settlement in the Conquered Provinces and in Bundlecund (with the exceptions and subject to the provisions hereinafter stated) shall be extended to a further period of five years, viz., for the years 1233 to 1237, Fusly, inclusive, in cases in which it may have been concluded with zemindars, lumberdars, or other persons recorded as the proprietors or possessors of a permanent interest in the mehaul for which they may have engaged, or as the representatives of such persons.—Reg. IX., 1824, sec. ii., cl. 1.

266. If any zemindars and other persons aforesaid shall be unwilling to continue their engagements for a further period of five years on the terms specified in this Regulation, they shall notify the same to the collector, or other officer exercising the powers of the collector, to whom they may be subject, on or before the 15th October next. And all zemindars and other persons aforesaid who shall not make a notification to the effect and within the period above mentioned, shall be held and are hereby declared to be responsible for the payment of the same revenue for each of the five years subsequent to the settlement now in force, viz., for the years 1233 to 1237, inclusive, as may be specified in their engagements for the year 1232, Fusly. And in such cases no alteration shall be made in the jumma demandable by Government on account of the mehauls held by such persons (excepting as hereinafter excepted) until the expiration of the said period of five years.—Reg. IX., 1824, sec. ii., cl. 2.

267. It shall be competent to collectors and other officers exercising the powers of collectors, subject to the orders of the Board of Revenue to which they may be subordinate, to exclude from the operation of the above rule any mehaul or mehauls of which a revised settlement may have been made, or be about to be made, under the rules of Regulation VII., 1822, or in regard to which there may, in the judgment of these authorities, exist any special reasons for effecting an early resettlement of the same; and in the case of mehauls of the last description, it shall be competent to the collectors, or other officers aforesaid, to make an immediate resettlement of the same on the expiration of the existing leases, or to grant to the persons under engagements renewed leases for such further term (not exceeding five years) as the Board may direct. Provided, however, that in all cases in which it may be determined to adopt special measures as above, in regard to any mehaul or mehauls, the collector, or other officer aforesaid, shall give notice of such determination in writing to the person under engagements for the same, on or before the 1st March, 1825. A perwannah delivered to, or left at the usual residence of the malguzar, or a notification

stuck up, under orders of the collector, in any conspicuous place within the mehaul, shall be held to be sufficient notice for the above purpose.—Reg. IX., 1824, sec. ii., cl. 3.

268. The above rules shall not be held to affect the terms of any engagements which may have been specifically entered into on account of any year or years subsequent to the general settlement now in force.—Reg. IX., 1824, sec. ii., cl. 4.

269. Zemindars and other persons as aforesaid whose engagements shall be continued for a further period of five years as above provided, as well as all other persons who may hereafter enter into engagements as proprietors, or as the representatives of proprietors, shall, after the expiration of the leases so extended or granted, hold the mehauls for which they may have engaged or may hereafter engage, and shall continue to be subject to the payment of the same annual jumma as may be chargeable on account of the last year of their lease, until the collector, or other officer exercising the powers of collector, shall effect a detailed revision of the settlement in the mode prescribed by Regulation VII., 1822, or shall be otherwise specially authorized by Government to make a fresh assessment. Provided also, that no zemindar, or other malguzar as aforesaid, shall be liable to pay on account of any year a higher jumma than that payable under the above rule, unless he shall have been apprised of the Board's approval of the new assessment, on or before the month of Jeth preceding: nor shall any such zemindar, or other malguzar, be ousted from the management of any mehaul for which he may be under engagements, without such notice, except by due course of law, on a decision in favour of the title of another party claiming the property of the same. Reg. IX., 1824, sec. ii., cl. 5.

270. With respect to estates which are at present let to farm, a settlement thereof shall be made on the expiration of the existing leases, for such a period as the Governor-General in Council may direct: a preference shall be given to the zemindars, or other persons possessing a permanent property in the mehauls, if willing to engage for the payment of the public revenue on reasonable terms. Provided also, that in cases wherein such mehauls may be let in farm, the term of the lease granted to the farmers shall not, excepting as hereinafter excepted, exceed twelve years. The above rules shall likewise be applicable to estates now held khas; so in any case wherein the zemindars and other proprietors may refuse to continue their existing engagements on equitable terms, it shall be competent to the revenue authorities to let the lands in farm for such period with the restriction herein specified as the Governor-General in Council shall appoint, or to assume the direct management of them, and to retain them under khas management during the period aforesaid, or such shorter period as may be judged proper. Provided also, that in cases wherein it shall appear that the zemindars have wilfully reduced the cultivation of their lands, or otherwise deteriorated the mehaul under their engagements in their occupancy, it shall be competent to the revenue authorities to exclude persons so offending, and to let the lands in farm for a period of fifteen years: leases for a like period may also be granted to zemindars and farmers in cases where, from special local circumstances, the measure may appear necessary with a view to the reclaiming of waste, the construction of works requisite for the extension of cultivation, or otherwise for the improvement of the country.—Reg. IX., 1824, sec. iii.

271. The rules contained in the third and following sections of Regulation VII., 1822, with the modifications above provided for, and the necessary alteration of dates and periods, are and shall be held to be equally applicable to the Conquered Provinces and to Bundlecund as to the Ceded Provinces; provided also, that such part of Clause Third, Section IX. of that Regulation as prescribes that engagements taken in the manner specified in that clause shall be restricted to the term of five years, shall not be held applicable to leases granted to farmers in the cases specified in the foregoing paragraph, and that it shall be competent to the Board of Revenue, with the sanction of Government, to grant leases, either to proprietors or farmers, for any period not exceeding fifteen years, whenever special circumstances shall, in their judgment, render it expedient to do so, as well in the Ceded as in the Conquered Provinces.—Reg. IX., 1824, sec. iv.

# NORTH-WESTERN PROVINCES.

## DURATION OF THE EXISTING SETTLEMENTS.

272. The jumma of all villages included on 1st May, 1846, within the limits of the districts in the said provinces noted below, shall be considered fixed till the date inserted opposite to each district, so far as regards the claim of the Government to any increase upon the jumma determined at the time of settlement, or as it stands subsequently altered by Government prior to 1st May, 1846.

Paneeput, July 1st, 1872, one thousand eight hundred and seventy-two.
Hissar, July 1st, 1860, one thousand eight hundred and sixty.
Delhi, July 1st, 1870, one thousand eight hundred and seventy.
Rohtuck, July 1st, 1870, one thousand eight hundred and seventy.
Goorgaon, July 1st, 1872, one thousand eight hundred and seventy-two.
Seharunpore, July 1st, 1857, one thousand eight hundred and fifty-seven.
Mozuffernugger, July 1st, 1861, one thousand eight hundred and sixty-one.
Meerut, July 1st, 1865, one thousand eight hundred and sixty-five.
Boolundshehur, July 1st, 1859, one thousand eight hundred and fifty-nine.
Allyghur, July 1st, 1868, one thousand eight hundred and sixty-eight.
Bijnour, July 1st, 1866, one thousand eight hundred and sixty-six.
Moradabad, July 1st, 1872, one thousand eight hundred and seventy-two.
Budaon, July 1st, 1866, one thousand eight hundred and sixty-six.
Bareilly, July 1st, 1867, one thousand eight hundred and sixty-seven.
Shajehanpore, July 1st, 1868, one thousand eight hundred and sixty-eight.
Muttra, July 1st, 1871, one thousand eight hundred and seventy-one.
Agra, July 1st, 1872, one thousand eight hundred and seventy-two.
Furruckabad, July 1st, 1865, one thousand eight hundred and sixty-five.
Mynpoory, July 1st, 1870, one thousand eight hundred and seventy.
Etawah, July 1st, 1871, one thousand eight hundred and seventy-one.
Cawnpore, July 1st, 1870, one thousand eight hundred and seventy.
Futtehpore, July 1st, 1870, one thousand eight hundred and seventy.
Humeerpore, July 1st, 1872, one thousand eight hundred and seventy-two.
Banda, July 1st, 1874, one thousand eight hundred and seventy-four.
Allahabad, July 1st, 1869, one thousand eight hundred and sixty-nine.
Goruckpore, July 1st, 1859, one thousand eight hundred and fifty-nine.
Azimgurh, July 1st, 1867, one thousand eight hundred and sixty-seven.

—Act VIII., 1846, sec. i.

273. Mouzahs, standing transferred on the above date of May 1st, 1846, from districts or pergunnahs not permanently settled, to districts or pergunnahs permanently settled, shall not be held liable to any increased demand on the part of the Government, but shall be held for ever on the highest jumma determined at the time of settlement, or as it stands subsequently altered by Government prior to 1st May, 1846.—Act VIII., 1846, sec. ii.

274. Provided always, and it is hereby declared, that persons holding land on special grants, or on leases for longer periods than those specified in paragraph 272, shall continue to hold them according to the terms of their several grants or leases.—Act VIII., 1846, sec. iii.

275. Whenever a malguzar may be desirous to relinquish his lease on the expiration of the term of his engagement, he shall be at liberty to do so, provided that he give notice thereof in open Court and in writing to the collector and to the commissioner of the division within one year before the 1st of July immediately preceding the expiration of the engagement.—Act VIII., 1846, sec. iv.

276. When such notice shall not have been given as aforesaid, the malguzar shall be held bound to pay the jumma determined at the time of settlement, or as it stands subsequently altered by Government prior to the 1st of May, 1846, for the period which may be applicable to his case according to paragraph 272, and subsequently from year to year till the settlement be revised, or in perpetuity according to paragraph 273.—Act VIII., 1846, sec. v.

277. Provided, however, and it is hereby declared, that nothing in this Act shall bar the right of the Government to demand revenue from any resumed rent-free land, alluvial towfeer, or other land, which was not assessed at the time of settlement.—Act VIII., 1846, sec. vi.

# CUTTACK.

## SETTLEMENT.

278. Whereas it is necessary that fixed rules should be established for the settlement and collection of the public revenue in the zillah of Cuttack: And whereas the principles of justice and good faith require that the declarations made by the late Board of Commissioners to the several descriptions of zemindars, talookdars, farmers, and other holders of land, should be formally recognized and confirmed: And whereas it has been judged to be advisable to extend the Regulations in force for the settlement and collections of the public revenue in the province of Bengal, with certain modifications and exceptions, to the zillah of Cuttack: the following rules have been enacted, and are to be in force from the period of the promulgation of this Regulation.—Reg. XII., 1805, sec. i.

279. On taking possession of the country, the commissioners deemed it to be necessary to adopt the surest means of preserving uninjured the rights of the different landholders in the territory called Mogulbundy, being that part of the zillah of Cuttack in which, according to established usage, as in Bengal, the land itself is responsible for the payment of the public revenue, and in which every landholder holds his lands subject to the conditions of that usage. With this view, the commissioners issued a publication, signifying that all those persons who were in possession of the lands at the close of the Umlee year 1210 (corresponding with the Willaity year 1210), should continue in possession during the year 1211. The commissioners also declared all demands for balances of former years to be cancelled, and they ordered the amount of the revenue payable by the respective zemindars on account of the year 1211, Umlee (corresponding with the Willaity year 1211), to be ascertained and established according to the rate of the receipts of former years, granting a deduction of the amount of some oppressive abwaubs and other exactions, and allowing for losses sustained by the ryots from the failure of the first crop of that season, and also for such part of the revenue of the current year as had been previously collected by the Mahratta Government.—Reg. XII., 1805, sec. ii.

280. The arrangements adopted by the commissioners with respect to the settlement of the revenue for the years 1210 and 1211, Umlee (corresponding with the years 1210 and 1211, Willaity), together with the abatements from the jumma and the remissions of revenue granted by the commissioners in those years, are hereby confirmed.—Reg. XII., 1805, sec. iii.

281. The following proclamation relative to the settlement of the land revenue in the Mogulbundy territory of the zillah of Cuttack was published on the 15th of September, 1804, by the Board of Commissioners, in virtue of the powers vested in them.

"PROCLAMATION.—Cuttack, September 15, 1804.

"*First.* Whereas it is the intention of the British Government to adopt, at the expiration of the present Umlee year, such a plan for the settlement of the landed revenue of the province of Cuttack as may be most conducive to the prosperity of the country and to the happiness of the inhabitants: And whereas it is of the utmost consequence to the success of the measure, as well as to the interest of the zemindars, talookdars, and all others concerned, that the nature and terms thereof should be made known as early as possible, notice is hereby given:—

"*Second.* That at the commencement of the Umlee year 1212, the sayer of every denomination will be separated from the mal or land revenue, and a settlement for the latter only concluded in all practicable cases with the zemindars or other actual proprietors of the soil (unless when disqualified by notoriously bad character, or other good and sufficient cause), for a period of one year, it being understood that all zemindars and other landholders, and all khandytes, shall for the present, and during the pleasure of Government, continue to perform the same duties of police for the prevention of robberies, murders, and crimes of that nature, and for the preservation of peace and good order within their respective limits, and to be subject to the same responsibility as heretofore.

"*Third.* That at the expiration of the year 1212 another settlement will be made with the same persons (if willing to engage, and they shall have conducted themselves to the satisfaction of Government) for three years, at a fixed equal annual jumma, which jumma shall be formed upon a just and moderate consideration of the receipts in the year 1212 and former years.

"*Fourth.* That at the expiration of the fourth year a new settlement will be made with the same persons (if willing to engage, and they shall have conducted themselves to the satisfaction of Government), for a further period of four years, at a fixed annual jumma, formed by adding to the annual rent of the preceding lease of three years, two-thirds of the net increase of revenue during any one year of that period.

"*Fifth.* That at the end of the lease for four years (which will be in the Umlee year 1219) a further settlement for the period of three years will be concluded with the persons in possession (if willing to engage, and they shall have conducted themselves to the satisfaction of Government), at a jumma to be formed by adding to the annual rent of the preceding lease of four years, three-fourths of the net increase of revenue during any one year of that period.

NOTE.—See Reg. I., 1813.

"*Sixth.* That at the end of these eleven years, which will be in 1222, a permanent settlement will be concluded with the same persons (if willing to engage, and they have conducted themselves to the satisfaction of Government, and if no others who have a better claim shall come forward), for such lands as may be in a sufficiently improved state of cultivation to warrant the measure, on such terms as Government shall deem fair and equitable.

NOTE.—See Reg. X., 1812, and sec. vi., Reg. III., 1815.

"*Seventh.* The nankar lands of those zemindars who may decline entering into engagements for their estates, as also of those whose offers may be rejected by Government, will be subject to the payment of revenue equally with other lands in the district; but such zemindars shall for the present continue to receive in money an equivalent for what they have hitherto received as nankar from the Mahratta Government.

NOTE.—See sec. v., Reg. VII., 1822; and sec. xi., Reg. IX., 1833.

"*Eighth.* That with respect to such zemindaries as may have been mortgaged or transferred in security, and possession thereof actually given to the mortgagees or securities, the settlement will be made with the person in possession of the land, as the temporary representative of the proprietor, leaving the latter to obtain possession, either by a private settlement of accounts or by a judicial process.

"*Ninth.* That the settlement of such small talooks or zemindaries as may be only nominally included in large zemindaries, in the sudder jumma of which their jumma may be comprehended, will be made separately and distinctly with the proprietors of such small estates, and they will be allowed to pay their revenue directly to the collector, or the person appointed by him to receive it; and in all cases where the revenue of a village has, for upwards of five years past, been paid direct to Government by the hereditary mokuddum, the settlement for such village will be made with the hereditary mokuddum.

"*Tenth.* That with respect to such lands as are without proprietors, or the proprietors of which decline entering into engagements, a village settlement shall be made, and a preference given to the hereditary mokuddums of those villages to which the lands belong; but no settlement is to be made with a mokuddum for lands not included in his mokuddamy.

"*Eleventh.* That in the event of neither proprietors, mokuddums, nor other respectable ryots, being forthcoming, such lands as are in that predicament will be held khas.

"*Twelfth.* That all authorized abwaubs are to be consolidated and incorporated with the land-rent, and expressed in the pottahs and cabooleats, and that nothing but what is there expressed shall be collected from the ryots or under-renters.

"*Thirteenth.* That all persons who may enter into engagements for the settlement must bind themselves by written obligations to grant pottahs of the above description to their ryots and under-renters.

"*Fourteenth.* That all persons who may enter into engagements with Government must previously give security for the fulfilment thereof in an amount equal to the largest kist of their annual jumma.

"*Fifteenth.* Several of the tributary rajahs have been accustomed to furnish guards, and be responsible for all robberies committed within the Mogulbundy lands bordering on their respective territories, and for which they have formerly been allowed to levy a tax, called chowpunny or mongum khandity: those rajahs are to continue to furnish the usual guards and be subject to the same responsibility as heretofore; but instead of being permitted to levy the above-mentioned tax, the said rajahs will, until further arrangements can be made, receive an equivalent in money from Government.

"*Sixteenth.* Such being the provisions made for the preservation of the rights of the zemindars, ryots, &c., &c., and for the effectual prevention of undue exaction, there cannot be a doubt that confidence in the protection of Government will be established amongst all ranks of people, that cultivation will be extended, and that the general prosperity of this province will rapidly increase."—Reg. XII., 1805, sec. iv.

282. The rules, orders, and declarations contained in the above proclamation, are hereby confirmed, with the following qualifications and explanations. With the view of obviating any misconstruction of the rule to be adopted, in adding to the jumma a portion of the increased produce, in concluding the settlements to be formed at the commencement of the Willaity years

1216 and 1220 (corresponding with the years 1216 and 1220 Umlee), it is hereby declared, in explanation of the third and fourth clauses of the proclamation issued on the 15th of September, 1804, that the amount of the nankar to which zemindars are or may be entitled, under their original engagements, for the first triennial settlement, shall be deducted from the actual yearly produce of their estates at the time of the expiration of each lease; and that the actual increase of public revenue to be assessed agreeably to the clauses above specified, shall be calculated on the amount of the difference between the actual net produce after such deduction, and the annual amount of the former lease. It is at the same time provided, that the portion of the increased produce relinquished to the zemindars under the above-mentioned clauses, on the formation of the successive settlements shall be considered to preclude all claim on the part of the zemindars to any further proportion of such increased produce on account of nankar, in addition to the deduction originally made and continued to them on this account.—Reg. XII., 1805, sec. v.

NOTE.—See sec. v., Reg. VII., 1822; and sec. xi., Reg. IX., 1833.

283. The lands of some zemindars, independent talookdars, and other actual proprietors of lands having been held khas or let in farm, in consequence of their refusing to pay the assessment required from them under the proclamation inserted in paragraph 281, the Governor-General in Council hereby notifies to the zemindars, independent talookdars, and other actual proprietors of land whose lands are held khas, that they shall be restored to the management of their lands, upon their agreeing to the payment of the assessment which shall be required from them, in conformity to the prescribed rules for the settlement of the land revenue.—Reg. XII., 1805, sec. vi.

284. In explanation of the provision contained in the 13th article of the above proclamation, it is hereby declared, that as a sufficient period of time will have elapsed during the first triennial settlement of the land revenue in the zillah of Cuttack (which will expire with the Willaity year 1215), to enable the proprietors and farmers of land to complete the adjustment and delivery of pottahs for the whole of their lands in the mode prescribed, the expiration of the Willaity year 1215 is the period fixed for the general delivery of pottahs.—Reg. XII., 1805, sec. vii.

285. Nothing contained in this Regulation shall be construed to authorize the resumption of the rents of any lands assigned under grants from the Rajah of Berar, or from any zemindar, talookdar, or any actual proprietor of land in the zillah of Cuttack, as endowments of the temple of Juggernauth, or of Mutths in the vicinity of that temple, or for similar purposes; provided, however, that any fixed quit-rent which the holders of such lands are bound to pay by the conditions of their grants shall continue to be paid agreeably to former usage.—Reg. XII., 1805, sec. viii.

286. Nothing contained in the foregoing proclamation shall be construed to authorize the resumption of the rents of any lands at present appropriated to the maintenance of certain sirdar pykes and other pykes for the support of the police; provided, however, that any fixed quit-rent which may be at present payable by such sirdar and other pykes, conformably to the tenour of their grants, shall continue to be paid agreeably to established usage.—Reg. XII., 1805, sec. ix.

287. The commissioners having granted sunnuds to certain zemindars, entitling them to hold their estates at a fixed jumma in perpetuity, those sunnuds are hereby confirmed. The following is a list of the names of the zemindars to whom this provision is to be considered applicable:—

Zemindar of Killah Durpam,
Ditto ditto Sookindah,
Ditto ditto Muddoopore.

—Reg. XII., 1805, sec. xxxiii.

288. The commissioners having likewise granted a sunnud to Futtah Mahomed, jaghiredar of Malood, entitling him and his heirs for ever, in consideration of certain services performed towards the British Government, to hold his lands exempt from assessment, such sunnud is hereby confirmed.—Reg. XII., 1805, sec. xxxiv.

289. The late Board of Commissioners having concluded a settlement of the land revenue with certain zemindars, whose estates are situated chiefly in the hills and jungles, for the payment of a fixed annual quit-rent in perpetuity, those engagements are hereby confirmed; and no alteration shall, at any time, be made in the amount of the revenue payable under the engagements in question to Government.—Reg. XII., 1805, sec. xxxv., cl. 1.

290. The following is a list of the mehauls to which the provision in the preceding paragraph is applicable:—

Killah Aull,
Ditto Cojang,
Ditto Puttra,
Killah Humishpore,
Ditto Miritchpore,
Ditto Bishenpore.

—Reg. XII., 1805, sec. xxxv., cl. 2.

291. The zemindaries of Cordah and Cunka being mehauls of the description of those specified in the preceding paragraph, a settlement shall be concluded, as soon as circumstances may admit, for the revenue of those mehauls on the principle on which a settlement has been concluded with the zemindars of the mehauls specified in the preceding paragraph.—Reg. XII., 1805, sec. xxxv., cl. 3.

292. All Regulations relating directly or indirectly to the settlement and collection of the public revenue, or to the conduct of the officers employed in the performance of that duty, whether European or native, in the province of Bengal, which are not superseded by the foregoing rules, are hereby extended to, and declared to be in force in the zillah of Cuttack. Provided, however, that nothing herein contained shall be construed to authorize the division of the lands comprised in any estates in the zillah of Cuttack, in which the succession to the entire estate devolves, according to established usage, to a single heir: in cases of this nature, the courts of justice are to be guided by the provisions contained in Regulation X., 1800. Provided also, that nothing herein contained shall be construed to imply, that any part of the said Regulations are for the present to be considered to be in force in certain jungle or hill zemindaries occupied by a rude and uncivilized race of people, with the proprietors of which estates engagements were formed by the late Board of Commissioners for the payment of a certain fixed quit-rent or tribute to Government. The following is a list of the names of the mehauls to which this exemption from the operation of the general Regulations is to be considered applicable :—

| | | |
|---|---|---|
| Killah Neelgery, | Killah Toalcherry, | Killah Rampore, |
| Ditto Bankey, | Ditto Attghurh, | Ditto Hindole, |
| Ditto Joormoo, | Ditto Kunjur, | Ditto Teegereah, |
| Ditto Nirsingpore, | Ditto Kindeapura, | Ditto Burrumboh, |
| Ditto Augole, | Ditto Neahgurh, | Ditto Deckenaul. |

—Reg. XII., 1805, sec. xxxvi.

293. The foregoing exemption from the operation of the general Regulations shall likewise, for the present, be considered to be applicable to the lands known by the appellation of the territory of Mohurbunge; but it shall be the duty of the collector of the zillah to conclude a settlement with the proprietor of that estate for the payment of a fixed annual quit-rent, on the principles on which a settlement has been concluded with the other hill or jungle zemindars specified in the preceding paragraph.—Reg. XII., 1805, sec. xxxvii.

## POSTPONEMENT OF THE INTENDED PERMANENT SETTLEMENT.

### SETTLEMENTS FOR 1216, 1217, 1218, AND 1219, UMLEE.

294. *The Governor-General in Council hereby notifies to the zemindars and other actual proprietors of land in the zillah of Cuttack, that the jumma which may be assessed on their estates in the last year of the settlement immediately ensuing the present settlement, shall remain fixed for ever, in case the zemindars shall now be willing to engage for the payment of the public revenue on those terms in perpetuity, and the arrangement shall receive the sanction of the Honourable the Court of Directors. This rule shall accordingly be carried into effect under the orders and superintendence of the Board of Revenue.*—Reg. X., 1807, secs. v., vi.

295. Such parts of the preceding paragraph as declare provisionally that the jumma which may be assessed on the estates of the zemindars and other actual proprietors of lands in the above-mentioned territories shall remain fixed for ever, are hereby rescinded.—Reg. X., 1812, sec. ii.

296. It having been declared in clause 6, paragraph 281, with reference to the settlement then depending, that at the end of ten years, that is, at the expiration of the Fusly year 1222, a permanent settlement would be concluded with the same persons (if willing to engage, and if no others having a better claim should come forward), for such lands as might be in a sufficiently improved state of cultivation to warrant the measure, on such terms as Government should deem fair and equitable, the said rule is hereby declared to be in full force and effect.—Reg. X., 1812, sec. iii.

297. Under the provision contained in the preceding rule, it will of course be the duty of the Board of Revenue to ascertain, previously to the expiration of the year 1222, what estates may be in a state of cultivation to warrant the conclusion of a permanent settlement. In all such cases, a revision shall be made of the jumma assessed on the said estates, on the principle of leaving to the proprietors a net income of ten per cent. on the jumma, exclusive of charges of collection, and a settlement shall be concluded with the proprietors, subject of course to the approval of the Governor-General in Council accordingly. The jumma which may be so fixed on the estates of the zemindars and other actual proprietors of land shall, in conformity to the tenor of the

proclamations originally issued, and afterwards incorporated into Regulation XII., 1805, remain fixed for ever.—Reg. X., 1812, sec. iv.

298. Under the rule contained in paragraph 296, it will likewise be the duty of the Board of Revenue to submit to the Governor-General in Council a report, specifying the estates which may not appear to be yet in a sufficiently improved state of cultivation to admit of the conclusion of a permanent settlement, without a sacrifice of those resources which may hereafter be derived from them for the exigencies of Government. In all cases of that nature, the Governor-General in Council will determine, on consideration of the information which may be furnished by the Board of Revenue, whether the settlement of such estates shall be made for the term of three or five years, or for any other period, according as may appear most conducive to the public interests.—Reg. X., 1812, sec. v.

299. Such parts of paragraph 294, and of the rules therein referred to, as direct that a settlement shall be made on the commencement of the ensuing Fusly year in the zillah of Cuttack, for the period of four years, and that the jumma which may be assessed on the lands in the last year of that settlement shall remain fixed in perpetuity, provided that the arrangements shall receive the approbation of the Honourable Court of Directors, are hereby rescinded.—Reg. VI., 1808, sec. ii.

300. A settlement shall be made in the zillah of Cuttack, and in the pergunnah of Puttaspore, &c., for the period of one year, viz., the Umlee year 1216.—Reg. VI., 1808, sec. iii.

301. On the expiration of the Umlee year 1216, a settlement shall be made in the said zillah and places on the principle prescribed in paragraph 294, for the period of three years, *and the assessment which may be fixed on the lands in the year* 1219 *shall remain fixed for ever, in case the zemindars shall now be willing to engage for the payment of the public revenue on those terms in perpetuity, and the arrangement shall receive the sanction of the Honourable Court of Directors.*—Reg. VI., 1808, sec. iv.

### SETTLEMENTS FOR 1220, 1221, AND 1222, UMLEE.

302. A settlement shall be made in the zillah of Cuttack, and in the pergunnah of Puttaspore and its dependencies, for the period of one year, viz., the year 1220, Umlee.—Reg. I., 1813, sec. ii., cl. 1.

303. On the expiration of the Umlee year 1220, a settlement shall be made in the said zillah and places for the period of two years, viz., 1221 and 1222.—Reg. I., 1813, sec. ii., cl. 2.

304. On the expiration of the year 1222, the Board of Revenue will, of course, conform to the provision contained in paragraph 298, respecting the future settlement of the said district and places.—Reg. I., 1813, sec. ii., cl. 3.

### SETTLEMENT FOR 1223, UMLEE.

305. The existing settlement of the land revenue of the district of Cuttack, the pergunnah of Puttaspore and its dependencies, shall continue in force until the expiration of the year 1223, Umlee, subject to the following provisions.—Reg. III., 1815, sec. ii.

306. If any zemindar or farmer who has entered into engagements for the payment of the public revenue, during the existing settlement, shall not be willing to continue those engagements to the expiration of the ensuing year 1223, Umlee, he shall notify the same to the collector of Cuttack, or to the collector of Hidgellee, according as his lands may be situated within the respective local jurisdiction of those officers, on or before the 1st August next; corresponding with the 18th Sawun, 1222, Bengal era; the 11th Sawun, 1222, Fusly; the 19th Sawun, 1222, Willaity; the 11th Sawun, 1872, Sumbut; and the 24th Shaban, 1230, Higeree.—Reg. III., 1815, sec. iii.

307. All zemindars and farmers, who shall not make a notification to the effect, and within the period above mentioned, shall be held, and are hereby declared to be responsible for the payment of the same revenue, during the year 1223, Umlee, as may be specified in their engagements for the present year 1222, Umlee.—Reg. III., 1815, sec. iv.

308. The collectors of Cuttack and Hidgellee shall make such arrangements for the management during the year 1223, Umlee, of any lands which may be relinquished by the zemindars or farmers under the option vested in them by paragraph 306, as may appear to be most advisable under the instructions of the Board of Revenue, and with the sanction of Government.—Reg. III., 1815, sec. v.

309. Nothing contained in this Regulation shall be construed to deprive the zemindars of the benefit of the pledge conveyed in paragraph 281, and confirmed by paragraph 296, purporting, that at the expiration of the Umlee year 1222, a perpetual settlement will be concluded for such

estates as may be in a sufficiently advanced state of cultivation to warrant the adoption of that measure without an undue sacrifice of the public resources; and it will consequently be the duty of the Board of Revenue to report, as soon as circumstances may admit, what estates may be in a state of cultivation to warrant the conclusion of a permanent settlement, either with or without an increase on the assessment of 1222, Umlee, as the condition and produce of the several estates may suggest.—Reg. III., 1815, sec. vi.

### SETTLEMENT FOR 1224, 1225, AND 1226, UMLEE.

310. The existing settlement of the land revenue of the district of Cuttack, and of the pergunnah of Puttaspore and its dependencies, shall, in all cases in which it may have been concluded with zemindars or other acknowledged proprietors of land, continue in force until the expiration of the year 1226, Umlee, subject to the following provisions.—Reg. VI., 1816, sec. ii.

311. If any zemindars who have entered into engagements for the payment of the public revenue during the existing settlement shall not be willing to continue those engagements to the expiration of the ensuing year 1226, Umlee, they shall notify the same to the collector of Cuttack, or to the collector of Hidgellee, according as the lands may be subject to the authority of either of those officers, on or before the 1st July next, corresponding with the 19th Assaur, 1223, Bengal era; the 21st Assaur, 1223, Fusly; the 20th Assaur, 1223, Willaity; the 6th Assaur, 1873, Sumbut; and the 4th Sabaun, 1231, Higeree.—Reg. VI., 1816, sec. iii.

312. All zemindars who shall not make a notification to the effect and within the period above mentioned shall be held, and are hereby declared to be responsible for the payment of the same revenue during the ensuing three years, viz., until the expiration of the year 1226, Umlee, as may be specified in their engagements for the year 1222, Umlee, and is demandable from them on account of the present year 1223, Umlee, under the provisions of paragraphs 305 to 309.—Reg. VI., 1816, sec. iv.

313. With respect to the lands which were let to farm in the year 1222, Umlee, and which were by special indulgence continued in the occupancy of the farmers during the year 1223, Umlee, under the provisions of paragraphs 305 to 309, as well as lands now held khas, the settlement of all such lands shall be formed for the ensuing three years with the zemindars or other actual proprietors of land, supposing such persons to be willing to engage for the payment of the public revenue on such terms as may appear reasonable, according to the most accurate information obtainable regarding the produce of their lands.—Reg. VI., 1816, sec. v.

314. In cases in which the zemindars may decline to engage for the payment of the revenue demandable from their lands during the ensuing three years, or in which no acknowledged proprietors of lands may be forthcoming, it will of course be the duty of the collector to consider whether the lands should be let to farm, or whether the rents should be collected directly from the great body of the ryots; or in other words, whether the land shall be khas, or whether (which will probably be found to be the most convenient and beneficial method) a settlement should be formed for the above period of three years for the several villages with the head ryot, however denominated, of each village respectively.—Reg. VI., 1816, sec. vi.

### SETTLEMENT FOR 1227, 1228, AND 1229, AND FROM 1229 to 1234, UMLEE.

315. The existing settlement of the land revenue of the district of Cuttack, and of the pergunnah Puttaspore and its dependencies, shall in all cases in which it may have been concluded with zemindars, or other acknowledged proprietors of land, continue in force until the expiration of the year 1229, Umlee, subject to the following provisions.—Reg. XIII., 1818, sec. ii.

316. If any zemindars or other proprietors of estates within the said district and pergunnah and its dependencies, who may have entered into engagements for the payment of the public revenue during the existing settlement, shall not be willing to continue those engagements to the expiration of the year 1229, Umlee, they shall notify the same to the collector of Cuttack, or to the collector of Hidgellee, according as the lands may be subject to the authority of either of those officers, on or before the 1st March, 1819; corresponding with the 19th Phagoon, 1225, Bengal era; the 19th Phagoon, 1226, Fusly; the 20th Phagoon, 1226, Willaity; the 5th Phagoon, 1875, Sumbut; and the 3rd Jumadi-ool-awal, 1234, Higeree.—Reg. XIII., 1818, sec. iii.

317. All zemindars who shall not make a notification to the effect, and within the period above mentioned, shall be held, and are hereby declared to be responsible for the payment of the same revenue, during the ensuing three years, viz., until the expiration of the year 1229, Umlee, as may be demandable from them on account of the present year, under the provisions of

paragraphs 310 to 314, or under distinct engagements entered into by such proprietors.—Reg. XIII., 1818, sec. iv.

318. With respect to estates which are at present let to farm, and of which the leases will expire with the present year, as well as estates now held khas, the settlement of all such lands shall be formed for the ensuing three years with the zemindars, or other actual proprietors of land, supposing such persons to be willing to engage for the payment of the public revenue, on such terms as may appear reasonable, according to the most accurate information obtainable regarding the produce of their lands.—Reg. XIII., 1818, sec. v.

319. In cases in which the zemindars or other proprietors may relinquish the management of their estates under the option given to them by paragraph 316, or who may otherwise decline to engage for the payment of the revenue demandable from their lands during the ensuing three years, and in cases in which no acknowledged proprietors of lands may be forthcoming, it will of course be the duty of the revenue authorities to take timely measures for ascertaining the assets of the estates, and it shall be competent in such cases to the said authorities to let the lands in farm for such period, not exceeding ten years, as the Governor-General in Council shall appoint, or to assume the direct management of them. In all such cases the recusing zemindars shall be entitled, from and after the commencement of the ensuing Umlee year, to receive an allowance as malikana, at such rate as the Board of Revenue, the commissioner in Cuttack, or other officer exercising the powers of the said Board, shall in each case determine; anything in the existing Regulations notwithstanding: Provided, however, that the said allowance shall not in any case be less than five per cent. on the net amount realized by Government from the lands, nor shall it exceed ten per cent. on that amount, without the special sanction of the Governor-General in Council: Provided further, that if the said recusing zemindars, or other proprietors, shall in any case be in the receipt of any allowance in lieu of the nankar, formerly granted to them by the Mahratta Government, under the provisions of Regulation XII., 1805, the amount of such nankar allowance shall be deducted from the malikana to which they are by this paragraph declared to be entitled.—Reg. XIII., 1818, sec. vi.

320. The existing settlement of the land revenue in the district of Cuttack, with the exception hereinafter specified, shall, in all cases in which it may have been concluded with zemindars, or persons acknowledged as the proprietors or possessors of a permanent interest in the mehaul for which they have engaged, continue in force until the expiration of the year 1234, Umlee, subject to the following provisions:—Reg. VII., 1822, sec. ii., cl. 1 & 2.

321. The commissioner in Cuttack, having, under instructions from the Governor-General in Council, caused proclamations to be issued, declaring the resolution of Government to extend the existing leases as above, and requiring all zemindars and other persons aforesaid, who might be unwilling to continue their engagements for a further period of five years, to notify the same to the collector of the zillah, the said proclamations are hereby sanctioned and confirmed; and all zemindars and other persons aforesaid who shall not have made a notification to the effect and within the period thereby required, shall be held and are hereby declared to be responsible for the same revenue for each of the ensuing five years, viz., until the expiration of the year 1234, Umlee, as may be demandable from them on account of the present year.—Reg. VII., 1822, sec. ii., cl. 3.

322. The pergunnah of Puttaspore and its dependencies are excluded from the operation of the rules contained in paragraphs 320 and 321: the zemindars and other persons aforesaid within the said districts shall be allowed to hold, from year to year, the mehauls for which they may now be under engagements, subject to the payment of the jumma demandable on account of the present year, until the revenue officers shall be prepared to commence a careful revision of the settlement of their respective estates; and all engagements into which such zemindars and other persons may have entered, or shall enter, with the local revenue authorities for continuing their present leases as aforesaid, are hereby confirmed.—Reg. VII., 1822, sec. ii., cl. 4 & 5.

323. Provided also, that it be hereby declared and enacted as a general rule, that if any zemindar, or other malguzar as aforesaid, who may now or hereafter be under engagement for the payment of the revenue demandable by Government on account of any mehaul, shall be allowed by the revenue authorities to continue in the management of such mehaul after the expiration of such engagement, and shall do or direct any act relative to the cultivation or management of such mehaul, or the settlement, assessment, or collection of the rents of such mehaul, in or on account of any year subsequent to the term of such engagement, such zemindar or other malguzar aforesaid shall be held to be responsible on account of such year for the same revenue as may have been demandable from him for the year preceding, unless otherwise specially agreed upon: provided further, that it shall be competent for collectors, or other officers exercising the power of collectors, with the sanction of the Board, or commissioner to whom they may be subordinate, at any time, not being more than six months previous to the expiration of a settlement, to call upon the zemindars, or other malguzars as aforesaid, to declare whether or not they are willing to continue

their engagements for the ensuing year; and if such zemindars or other malguzars shall not forthwith notify their refusal to do so, they shall be held to have agreed to such an extension of their leases at the existing assessment, and so on, from year to year, as aforesaid. Zemindars or other malguzars who may be allowed to hold on from year to year shall not be chargeable with any additional revenue on account of any year, unless the collector, or other officer exercising the powers of collector, shall notify his intention to revise the assessment on or before the commencement of such year, unless where otherwise specially provided.—Reg. VII., 1822, sec. ii., cl. 6.

## RESPONSIBILITIES OF MALGUZARS FOR THE JUMMA FIXED BY THE SETTLEMENT.

324. Every malguzar in the province of Cuttack, and every body of malguzars in the said province having as such body joint engagements with the Government, and being persons acknowledged as the proprietors or possessors of a permanent interest in the mehaul for which they have engaged, shall be answerable for the jumma fixed by the terms of the settlement now existing for every mehaul of such malguzar, or body of malguzars, until a new settlement of such mehaul shall be completed and confirmed according to the provisions of Regulation VII. of 1822, and Regulation IX. of 1833, of the Bengal code.—Act VI., 1837, sec. i.

325. Provided always, that if any such malguzar, or body of malguzars, shall, before the 1st day of August, 1837, notify to the collector of the district within which any mehaul of such malguzar, or body of malguzars, as aforesaid, may be situated, that it is the intention of such malguzar, or body of malguzars, to relinquish the existing engagements of such malguzar, or body of malguzars, in respect of such mehaul, at the expiration of the term for which those engagements have been made, it shall be lawful for such malguzar, or body of malguzars, to relinquish the said engagements at the expiration of the said term.—Act VI., 1837, sec. ii.

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# SETTLEMENT WITH THE GHAUTWALS OF BEERBHOOM.

326. A settlement having lately been made on the part of Government with the Ghautwauls in the district of Beerbhoom, it is hereby declared that they and their descendants in perpetuity shall be maintained in possession of the lands, so long as they shall respectively pay the revenue at present assessed upon them, and that they shall not be liable to any enhancement of rent so long as they shall punctually discharge the same and fulfil the other obligations of their tenure.—Reg. XXIX., 1814, sec. ii.

327. The ghautwaullee lands shall be considered, as at present, to form a part of the zemindary of Beerbhoom; but the rents of Ghautwauls shall be paid direct to the assistant collector stationed at Soory, or to such other public officer as the Board of Revenue, with the sanction of the Governor-General in Council, may direct to receive the rents.—Reg. XXIX., 1814, sec. iii.

328. The difference between the amount of the revenue assessed on the Ghautwauls and the fixed assessment of revenue in this portion of the zemindary of Beerbhoom payable to Government, shall be paid to the zemindar of Beerbhoom, and his heirs and successors, in perpetuity.—Reg. XXIX., 1814, sec. iv.

329. Should any of the Ghautwauls at any time fail to discharge their stipulated rents, it shall be competent for the Governor-General in Council to cause the ghautwaullee tenure of such defaulter to be sold by public sale in satisfaction of the arrears due from him, in like manner, and under the same rules as lands held immediately of Government, or to make over the tenure of such defaulter to any person whom the Governor-General in Council may approve, on the condition of making good the arrear due; or to transfer it by grants assessed with the same revenue, or with an increased or reduced assessment, as to the Government may appear meet; or to dispose of it in such other form and manner as shall be judged by the Governor-General in Council proper. Should any increase of revenue be obtained from the operation of any arrangements of the nature above described, such increase shall be paid, in conformity to the tenor of the preceding article, to the zemindar of Beerbhoom, his heirs and successors.—Reg. XXIX., 1814, sec. v.

# REVISION OF SETTLEMENTS.

330. Whereas the existing settlement of the land revenue in the Ceded Provinces will expire with the present Fusly year, and it has therefore become necessary to declare and enact the principles and rules according to which the demand of the State is thereafter to be regulated, and the manner in which future settlements and revisions of settlements are to be conducted: and whereas a moderate assessment being equally conducive to the true interests of Government and to the well-being of its subjects, it is the wish and intention of Government, that in revising the existing settlement, the efforts of the revenue officers should be chiefly directed, not to any general and extensive enhancement of the jumma, but to the objects of equalizing the public burdens, and of ascertaining, settling, and recording the rights, interests, privileges, and properties, of all persons and classes, owning, occupying, managing, or cultivating the land, or gathering or disposing of its produce, or collecting or appropriating the rent or revenue payable on account of land, or the produce of land, or paying or receiving any cesses, contributions, or perquisites, to or from any persons resident in, or owning, occupying, or holding parcel of any village or mehaul; and whereas, with these views and intentions, the Governor-General in Council has considered it to be expedient and proper, with the exception hereinafter specified, to continue the existing assessment in all cases in which the settlement has been formed with zemindars or other persons acknowledged as proprietors or possessors of a permanent interest in the mehauls for which they may have engaged, until a new settlement can be made, combining with the revision of the Government jumma, and the deliberate investigation of the facts, by the determination of which its amount must be regulated, a full inquiry into, and a careful settlement of the rights and interests of all classes connected with the land: and whereas the same principles are applicable to the district of Cuttack, the pergunnah of Puttaspore, and its dependencies, of which the settlement will expire with the present Umlee year: and whereas it has appeared expedient to make special provision for the early settlement of the district of Goruckpore, the chukla of Azimgurh, the pergunnah of Puttaspore, and its dependencies: and whereas it is also advisable to provide for the revision of the settlement of the Conquered Provinces, and of the province of Bundlecund, pending the continuance of the existing leases: and whereas it is the desire of Government that the proceedings held, and the records formed by the collectors, when making settlements, or otherwise specially employed in conducting inquiries of the above nature, should be such as that all demands, claims, and suits may be adjudged and determined according to the facts therein stated, until the same shallhave been formally altered, or it shall be shown, by the result of a full investigation in a regular suit, that the proceeding or record of the collector was erroneous or incomplete: and whereas it is necessary to declare and define the powers and authority to be vested in collectors in the conduct of the said inquiries, and the adjustment of the differences arising out of or made known by them: and whereas it further appears advisable that the revenue officers should, in certain cases, be vested with authority judicially to receive, hear, investigate, and determine suits, claims, and demands of the above description: and whereas it appears to be expedient to declare and explain the views and intentions of Government relative to the rights to be enjoyed and exercised by the sudder malguzars, or persons admitted to engage for the payment of the Government revenue, and by persons collecting the rents of the land or revenue of Government, without being subject to the payment of any portion of it to the public treasury, such as jagheerdars, and other owners or managers of lakhiraj lands; and it is particularly necessary, in the case of estates held in putteedaree or bhyachara tenure, to make further provision for protecting the sharers who have not been admitted to engagements with Government against the encroachments of the sudder malguzar, and likewise to secure the latter against the consequences of the embezzlement or misappropriation by the former of the funds whence the Government revenue ought to be discharged:—for the purposes and objects above specified the following rules have been enacted, to be in force from the date of their promulgation, throughout the Ceded and Conquered Provinces, in the district of Cuttack, the pergunnah of Puttaspore and its dependencies.—Reg. VII., 1822, sec. i.

331. The rules contained in the following paragraphs, with the necessary alteration of dates and periods, are and shall be held to be equally applicable to the Conquered Provinces and to Bundlecund as to the Ceded Provinces.—Reg. IX., 1824, sec. iv.

332. The provisions contained in the following rules are declared to extend to all lands (including jagheers, mocurrurees, and other tenures held free of assessment or at a quit-rent under special grant) not included within the limits of estates for which a permanent settlement has been concluded in the manner prescribed by Regulation VIII., 1793, and Regulations II. and XXII., 1795, as far as the same may be applicable.—Reg. IX., 1825, sec. ii., cl. 1.

333. The said provisions shall likewise be in force in all estates which may now or hereafter be held khas during the period for which they may be so managed.—Reg. IX., 1825, sec ii., cl. 2.

334. The provisions aforesaid shall also apply to the Sunderbuns, the hill lands of Bhaugulpore, and other extensive forests and wastes, not included within the limits of pergunnahs, mouzahs, or other revenue divisions, specified at the time of settlement as belonging to the mehauls then assessed; as well as to all estates bordering on such forests or wastes.—Reg. IX., 1825, sec. ii., cl. 3.

*Principles of the Settlement.*

335. If any zemindar or other malguzar who may now or hereafter be under engagement for the payment of the revenue demandable by Government on account of any mehaul, shall be allowed by the revenue authorities to continue in the management of such mehaul after the expiration of such engagement, and shall do or direct any act relative to the cultivation or management of such mehaul, or the settlement, assessment, or collection of the rents of such mehaul, in or on account of any year subsequent to the term of such engagement, such zemindar or other malguzar aforesaid shall be held to be responsible on account of such year for the same revenue as may have been demandable from him for the year preceding, unless otherwise specially agreed upon: provided further, that it shall be competent for collectors or other officers exercising the power of collectors, with the sanction of the Board, or commissioner to whom they may be subordinate at any time, not being more than six months previous to the expiration of a settlement, to call upon the zemindars, or other malguzars as aforesaid, to declare whether or not they are willing to continue their engagements for the ensuing year; and if such zemindars or other malguzars shall not forthwith notify their refusal to do so, they shall be held to have agreed to such an extension of their leases at the existing assessment, and so on, from year to year, as aforesaid. Zemindars or other malguzars who may be allowed to hold on from year to year, shall not be chargeable with any additional revenue on account of any year, unless the collector or other officer exercising the powers of collector shall notify his intention to revise the assessment on or before the commencement of such year, unless where otherwise specially provided.—Reg. VII., 1822, sec. ii., cl. 6.

336. With respect to estates which are at present let to farm, a settlement thereof shall be made on the expiration of the existing leases for such a period as the Governor-General in Council may direct. A preference shall be given to the zemindars, or other persons possessing a permanent property in the mehauls, if willing to engage for the payment of the public revenue on reasonable terms: provided also, that in cases wherein such mehauls may be let in farm, the term of the lease granted to the farmers shall not exceed twelve years. The above rules shall likewise be applicable to estates now held khas. So in any case wherein the zemindars and other proprietors may refuse to continue their existing engagements, or to enter into new engagements on equitable terms, it shall be competent to the revenue authorities to let the lands in farm for such period, not exceeding twelve years, as the Governor-General in Council shall appoint, or to assume the direct management of them, and to retain them under khas management during the period aforesaid, or such shorter period as may be judged proper: provided further, that if in any case it shall appear to the revenue authorities that the continuance or admission of any rajah, zemindar, talookdar, or other person who may have engaged, or may claim to engage, for any mehaul or mehauls in or to the management of such mehaul or mehauls, would endanger the public tranquillity, or otherwise be seriously detrimental, it shall be their duty to report the circumstance to Government, and it shall be competent to the Governor-General in Council, by an order in Council, to cause such mehaul or mehauls to be held khas or let in farm, for such term as may appear expedient and proper, not exceeding the period above specified.—Reg. VII., 1822, sec. iii.

337. In admitting particular parties to engage, it was in no degree the intention of Government to compromise private rights or privileges, or to vest the sudder malguzars with any rights not previously possessed by them, excepting in so far as their interest in the land for which they may have engaged might be improved by the limitation of the Government demand, or otherwise by the resignation in their favour of rights previously vested in Government itself, or as it may have been found necessary, with a view to the punctual realization of the public dues, to vest the sudder malguzar by special Regulation, with authority of distraint, or other powers of coercion over the under-tenants. On the contrary, it is the anxious desire of Government, and the bounden duty of its officers, to secure every one in the possession of the rights and privileges which he may lawfully possess, or be entitled to possess. In pursuance of this principle, it is hereby declared and enacted, that nothing in the above provisions for extending the existing leases, or in the stipulations of the existing settlements, do or shall be construed to bar the revenue officers, duly empowered in that behalf, from interfering to adjust the respective rights of the sudder malguzars and their under-tenants; nor shall any claims to a remission or abatement of revenue be admitted on the ground of any decision or order passed in that behalf, but if such decision or order shall operate materially to reduce the profits derived by any zemindar or malguzar from the mehaul

owned or managed by him, it shall be competent for such zemindar or malguzar to relinquish his engagements, and the revenue officers shall in such case proceed to make a settlement of the mehaul de novo.—Reg. VII., 1822, sec. iv.

338. The provisions contained in the existing Regulations regarding the allowance to be made to zemindars and other malguzars who may be excluded from the management of mehauls owned or claimed by them, whether as malikana or nankar, are hereby rescinded.—Reg. VII., 1822, sec. v., cl. 1.

339. The proprietors of estates let in farm or held khas shall be entitled to receive an allowance of malikana at such rate as the Board of Revenue, or other authority exercising the powers of that Board, may determine; anything in the existing Regulations notwithstanding: the said malikana to be apportioned in cases in which several proprietors may have heretofore held an estate under one common assessment, whether in joint tenancy or otherwise, according to the shares of each respectively; provided also, that the malikana allowance granted to the proprietor or proprietors of any mehaul shall not in any case be less than five per cent. on the net amount realized by Government from the lands; nor shall it exceed ten per cent. on that amount without the special sanction of the Governor-General in Council: provided further, that if the said proprietors shall in any case be in the receipt of any perquisite, or the profits of any lands in lieu of the nankar formerly granted to them by the native governments, or otherwise, in consideration of their proprietary tenure, the amount of such allowance shall be deducted from the malikana to which they are by this rule declared to be entitled: provided also, that this rule shall not apply to such zemindars as may continue in the occupancy of their tenures, whilst the mehaul in which they are included is held khas or farmed, or of any part of them,—that is to say, zemindars who may cultivate or lease their lands, and pay the revenue to the farmer or Government officer; nor, without the special sanction of Government, to any malguzar, zemindar, or other proprietor or holder of land, who may directly or indirectly continue to draw any allowance from the ryots of the lands farmed or held khas: provided also, that malguzars not being actual proprietors of the land included in the estate for which they may have formerly been under engagements, though recorded in the accounts of past settlements as zemindars, talookdars, or the like, or being proprietors of a part only of such land, shall not receive the above allowance on the jumma of the estate, but shall receive such allowance in lieu of their title of management, as it may appear to Government to be equitable to assign, in addition to the malikana to which they may be entitled on account of any lands held by them in actual property, and of which they may not retain the occupancy: and no malikana shall be granted to any sudder malguzar on account of lands, the occupants of which may deny his right of property, until he shall have established his right by a regular suit in a court of justice, or to the satisfaction of the Board. But in such cases, such provision will be made for the intermediate support of the party, as the Governor-General in Council may, on the recommendation of the Board, see fit to direct.—Reg. VII., 1822, sec. v., cl. 2.

340. Provided also, that if any zemindar or sudder malguzar shall have been called upon by a collector, or other officer exercising the powers of a collector, to state the highest amount of jumma, for the payment of which he may be willing to engage, and shall have stated the same accordingly, the sum so stated by such zemindar or sudder malguzar, and not the jumma ultimately realized by Government, shall form the basis on which his malikana allowance shall be adjusted; and in such case it shall and may be lawful for the revenue authorities to limit the said allowance to five per cent. on the said sum, or to a portion thereof, according to the extent of the proprietary interest possessed by the said zemindar or sudder malguzar. Provided also, that if a zemindar or sudder malguzar when so called upon shall fail to specify or tender any sum as aforesaid, then and in that case the net revenue derived by Government from the mehaul on account of the year preceding that in which the collector or other officer aforesaid may make the said requisition, shall be taken as the sum by which the amount of malikana (not being less than five, nor more than ten per cent. on the same) shall be adjusted.—Reg. VII., 1822, sec. v., cl. 3.

341. The foregoing rules concerning malikana are intended to have a prospective effect only, and to be applicable solely to settlements made under this Regulation, and to recusance tendered at the completion of such settlements.—Reg. IX., 1833, sec. xi.

342. In cases wherein the existing engagements may be continued under the rule contained in paragraph 335, it shall and may be lawful for the collectors, with the sanction of the Board of Commissioners, to enter at any time in the course thereof on a revision of the settlement, notwithstanding such continuance of the existing leases, and to adopt such measures as may be requisite for ascertaining and determining the extent and produce of the lands, and the amount of jumma properly demandable therefrom, and for procuring and recording the fullest possible information in regard to the rights, interests, privileges, and properties of the agricultural community, and to determine the same, with the same powers and authority as they now are or may hereafter be entitled to exercise in forming the settlement of estates open to re-assessment.—Reg. VII., 1822, sec. vi., cl. 1.

343. The said revision of the settlement shall be made village by village, and mehaul by mehaul; and such number of mehauls shall be revised in each year as the Board, under the orders of the Governor-General in Council, may direct.—Reg. VII., 1822, sec. vi., cl. 2.

344. Such revision of the settlement shall not operate to disturb the existing engagements during the period for which they may be continued under the provisions of paragraph 335, in so far as such engagements relate to the amount of jumma demandable by Government; but the said engagements shall be held and considered to include only such villages and lands as may be specified in the proceedings or accounts of the settlement last concluded; and if, on the revision of the settlement of any mehaul, it shall be found that there has been any material error, or concealment of lands belonging to such mehaul, the collector shall be authorized, subject to the orders of the Board, separately to assess the lands so withheld from the knowledge of the revenue authorities, in the same manner and with the same powers as he would assess an unsettled mehaul: provided also, that nothing in this or the preceding rules shall be construed to prevent the revenue officers from passing and enforcing such orders, in regard to the rights and interests to be enjoyed by the different classes or persons connected with any mehaul, during the period for which the existing settlement has been extended, as they may or shall be authorized to pass or enforce, when adjusting the assessment of an unsettled mehaul.—Reg. VII., 1822, sec. vi., cl. 3.

345. It shall in like manner be competent to the collectors in the Conquered Provinces, and in the province of Bundlecund, to enter on a revision of the settlement under the provisions contained in the three preceding paragraphs, during the continuance of the existing lease.—Reg. VII., 1822, sec. vi., cl. 4.

346. When a collector in the Ceded Provinces, or in the province of Cuttack, shall have completed the revision of the settlement of any mehauls under the rules contained in the four preceding paragraphs, it shall and may be lawful for him, subject to the orders of the Board of Revenue and of Government, to grant to the proprietors, if willing to engage on adequate terms, renewed leases for such further term of years subsequent to the year 1234, Fusly or Umlee, as the Governor-General in Council may direct.—Reg. VII., 1822, sec. vii., cl. 1.

347. The assessment to be demanded on account of the years subsequent to the year 1234, Fusly, to which leases renewed as above may extend, shall be fixed with reference to the produce and capabilities of the land, as ascertained at the time when the revision of the settlement shall be made, unless under special circumstances justifying a prospective enhancement of the Government demand: provided also, that the amount of such assessment shall not be raised above that of the present jumma, unless it shall clearly appear, that the net profits to be derived from the land by the zemindars, and others who may be entitled to share in the profits arising out of the limitation of the Government demand, will exceed one-fifth of that amount; and in cases wherein any increase may be demanded, the assessment shall be so regulated as to leave the zemindars and others aforesaid a net profit of twenty per cent. on the amount of the jumma payable by or through them respectively, no abatement on the existing jumma will be allowed, unless on the clearest grounds of necessity.—Reg. VII., 1822, sec. vii., cl. 2.

348. Neither the foregoing, nor any other of these rules shall be understood to prescribe, that the amount of jumma to be demanded from any mehaul shall be calculated on an ascertainment of the quantity and value of actual produce, or on a comparison between the costs of production and value of produce.—Reg. IX., 1833, sec. ii.

349. The pottahs granted on such revised settlements shall be held only to secure the malguzars from further demand during the term of their respective leases, on account of the lands specified in it, or described in the settlement roobakarree of the collector, with such allowance for error as may be distinctly declared at the time of settlement. Zemindars and other persons entering into engagements will be required, therefore, to afford the fullest and most correct information in regard to the rukba of the mehauls for which they may engage.—Reg. VII., 1822, sec. vii., cl. 3.

350. In like manner it shall and may be lawful for collectors in the Conquered Provinces and in the province of Bundlecund, to grant renewed leases for a further term of years subsequent to the expiration of the existing settlement, subject to the same rules, restrictions, and provisions, as are enacted in the preceding paragraphs relatively to the Ceded Provinces.—Reg. VII., 1822, sec. vii., cl. 4.

351. If any zemindar or other sudder malguzar, the settlement of whose estate may be revised under the above rules, shall refuse to enter into suitable engagements for a further period beyond the term of the then current lease, or if, after such revision, the revenue authorities shall, under any other circumstances, deem it expedient to postpone taking further engagements for the payment of the revenue of any mehauls until the expiration of the current leases, it shall be competent to them to do so; and in such case, the several rules contained in paragraph 336, relative to estates of which the settlement will expire with the present year, shall, on the expiration of the said leases, be and be held applicable to such mehauls.—Reg. VII., 1822, sec. vii., cl. 5.

352. The same rules shall also be applicable to the several mehauls within the district of Goruckpore, the chuklah Azimgurh, the pergunnah Puttaspore and its dependencies, as they may respectively become, or be declared open for re-settlement.—Reg. VII., 1822, sec. vii., cl. 6.

353. Where the waste land belonging to or adjoining any mehaul is very extensive, so as considerably to exceed the quantity required for pasturage, or otherwise usefully appropriated, it shall be competent to the revenue officers to grant leases for the same, to any persons who may be willing to undertake the cultivation, in perpetuity, or for such periods as the Governor-General in Council shall determine; and to assign to the zemindars, or others who may establish a right of property in the lands so granted, an allowance equivalent to ten per cent. on the amount payable to Government by the lessees, in lieu and bar of all claims to or in the waste lands so granted, or such other perquisites or privileges as by the custom of the country they may appear in such cases entitled to receive.—Reg. VII., 1822, sec. viii.

354. It shall be the duty of the collectors, and other officers exercising the powers of collectors, on the occasion of making or revising settlements of the land revenue, to unite, with the adjustment of the assessment and the investigation of the extent and produce of the lands, the object of ascertaining and recording the fullest possible information in regard to landed tenures, the rights, interests, and privileges of the various classes of the agricultural community. For this purpose their proceedings shall embrace the formation of as accurate a record as possible, of all local usages connected with landed tenures, as full as practicable a specification of all persons enjoying the possession and property of the soil, or vested with any heritable or transferable interest in the land, or the rents of it, care being taken to distinguish the different modes of possession and property, and the real nature and extent of the interests held, more especially where several persons may hold interests in the same subject-matter of different kinds or degrees. This record shall, in putteedary or bhyachara villages, or the like, include an accurate register of all the coparceners, not merely the heads of divisions, such as the puttees, thokes, or behrees, but also as far as possible of every person who occupies land, disposes of its produce, or receives rent as proprietor or as agent for one or more proprietors holding land and disposing of its produce, or receiving the rents of it in common, with a detailed statement of the interior arrangements adopted by the brotherhood, for the distribution of the profits derived from sources common to the coparceny where any such exist, and for determining the share of the Government jumma, and of the village expenses which each parcener is to contribute, or the other modes in which the engaging parcener or intermediate putteedars and behreedars collect from the cultivators. A record shall likewise be formed of the rates per beegah of each description of land or kind of produce demandable from the resident cultivators not claiming any transferable property in the soil, whether possessing the right of hereditary occupancy or not, and the respective shares of the sudder malguzar, or other manager, and the cultivator, in lands cultivated under kunkoot, bataie, or similar engagements, with a distinct specification of all cesses or extra collections made by the malguzar, or village manager, or other. The names of all the village putwaries and village watchmen shall also be registered, with a statement of the amount and nature of the allowance assigned them. And all lakhiraj tenures shall be carefully recorded, with a specification of the nature of the tenure. The information collected on the above points shall be so arranged and recorded, as to admit of an immediate reference hereafter by the Courts of Judicature; it being understood and declared, that all decisions on the demands of the zemindars shall hereafter be regulated by the rates of rent and modes of payment avowed and ascertained at the settlement, and recorded in the collector's proceedings, until distinctly altered by mutual agreement, or after full investigation in a regular suit; and all cesses or collections not avowed and sanctioned, nor taken into account in fixing the Government jumma, shall be held illegal and unauthorized, unless now or hereafter specially sanctioned by Government.—Reg. VII., 1822, sec. ix., cl. 1; Reg. IX., 1825, sec. vii.

355. Provided also, that it shall be competent to collectors and other officers as aforesaid (subject to the orders of the Board of Revenue) to grant pottahs to the several mofussil zemindars and ryots, or other owners or occupants of land, for the land owned or occupied by them, specifying the amount to be paid by them, and all the conditions attaching to their tenure; and a register of all pottahs so granted shall form a part of the roobakaree of settlement.—Reg. VII., 1822, sec. ix., cl. 2.

356. Provided, however, that if from the number of estates of which the leases may at once expire in any district, or from any other special cause, it shall be found necessary, for the security of the Government revenue, to take engagements from any zemindar, malguzar, or farmer, without completing the detailed inquiries above directed, it shall be competent to the Boards of Revenue, or other authority exercising the powers of such a Board, to cause engagements for the revenue to be taken in the manner heretofore in use, reporting the circumstance to the Governor-General in Council; but the term of the engagements so taken shall not exceed five years, and the rules relative to the revision of the settlements of mehauls, of which the existing leases have been

extended under the provisions of paragraph 335, shall be equally applicable to estates for which such engagements shall be taken.—Reg. VII., 1822, sec. ix., cl. 3.

357. The restriction, in the foregoing rule, of the term of engagements to the period of five years, shall not be held applicable to leases granted to farmers in the cases specified in paragraph 270, and it shall be competent to the Board of Revenue, with the sanction of Government, to grant leases either to proprietors or farmers for any period not exceeding fifteen years, whenever special circumstances shall in their judgment render it expedient to do so, as well in the ceded as in the conquered Provinces.—Reg. IX., 1824, sec. iv.

358. After the settlement of any village or mehaul shall have been made in the manner specified in the foregoing paragraphs, the rules and provisions of Section XXXIX., Regulation IX., 1810, shall be applicable to all cesses and collections not sanctioned in the manner specified in that section.—Reg. IX., 1825, sec. ix.

359. Neither the foregoing, nor any other of these rules shall be understood to prescribe, that the judicial investigation into and decision on questions of disputed private claims shall be conducted simultaneously with the ascertainment of and determination on the amount of the Government demand. The Governor-General in Council will hereafter determine the order in which the above matters shall be respectively disposed of.—Reg. IX., 1833, sec. iii.

### *Coparcenary Estates.*

360. Of several parties possessing separate heritable and transferable properties in any parcel of land, or in the produce or rent thereof, such properties consisting of interests of different kinds, it shall be competent to the Governor-General in Council to determine and direct which of such parties shall be admitted to engage for the payment of the Government revenue; due provision being made for securing the rights of the remaining parties. It is further hereby declared and enacted, that it is and shall be competent to the Governor-General in Council, in confirming the settlement of any mehaul in perpetuity, or for a term of years, to determine and prescribe the manner and proportion in which the net rent or profit arising out of the limitation of the Government demand shall be distributed among the different parties possessing an interest in the lands appertaining to such mehaul, or in the rent or produce of such lands or mehaul.—Reg. VII., 1822, sec. x., cl. 1.

361. In cases wherein any land appertaining to a mehaul hitherto recognized as the talooka, zemindaree, or the like, of one or more sudder malguzars, may be owned or occupied by other persons holding under the sudder malguzar, and possessing an heritable and transferable property therein, or an hereditary right of occupancy subject to the payment of a fixed rent, or of a rent determinable by a fixed principle, if the title of the said sudder malguzar to engage for the revenue be upheld, and generally in cases wherein the tenure of an intermediate malguzar or manager between the Government and the proprietors or hereditary occupants of the soil may be maintained, whether the Government revenue be collected from the zemindar, talookdar, or other hereditary intermediate malguzar, or the mehaul be farmed or held khas, it shall be competent to the collector, or other officer who may be employed in adjusting the jumma to be assessed on such mehaul, with the sanction of the Board previously obtained, and subject to the orders and directions of that authority, to make a mofussil settlement with each of the proprietors or occupants aforesaid for the land possessed by him, and to grant such proprietors or occupants pottahs, defining the condition on which they are to hold their land, whether subordinate to the sudder malguzar, or to the farmer or officer of Government employed in the khas management; and in all such cases, if engagements for the Government revenue of the mehaul be taken from the intermediate hereditary malguzar, the particulars of the mofussil settlement, when approved by the Board, shall be indorsed on the pottah to be granted to the sudder malguzar, or shall be so incorporated with the engagement taken from him as to form part of the same.—Reg. VII., 1822, sec. x., cl. 2.

362. In cases in which two or more persons may possess a joint property in any village, mehaul, or parcel of land, or in the rent or produce of any village, mehaul, or land, or in any part of such village, mehaul, land, rent, or produce, the property of such persons consisting of interests of the same kind, whether of the same extent or otherwise, as well as in cases wherein such property in any mehaul, village, land, produce, or rent, may be separately possessed by parties subject by prescriptive usage to common obligations, whether existing or contingent, it shall be competent to the collector, or other officer exercising the powers of collector, subject to the orders and direction of the Board and of the Governor-General in Council, either to make a joint settlement with the parties collectively, or a majority of them, or with an agent appointed by them, or a majority of them, or to select one or more of them to undertake the management of the mehaul as sudder malguzars, due advertence being had to the wishes of all the coparceners, and to the past custom of the village or villages comprised in the mehaul.—Reg. VII., 1822, sec. x., cl. 3.

363. When it shall be determined to make joint settlement for any village, mehaul, or parcel

of land, with the parties possessing therein a joint property as aforesaid, the collector, or other officer making the settlement, shall give notice of his intention, by a written proclamation to be stuck up in some public place within the village, mehaul, or land, and shall require all persons possessing therein a property as aforesaid to attend, either in person or by representative duly authorized in the matter, within a reasonable period, at a stated place and time, and to declare their agreement or non-agreement to the jumma proposed to be assessed on the village or land.—Reg. VII., 1822, sec. x., cl. 4.

364. If any person or persons, when summoned as above, shall refuse, neglect, or omit to attend, either in person or by representative, such person or persons shall be held to be bound by the decision of the majority of those who may attend, in agreeing or disagreeing to the jumma, and his or their interests and estate shall, unless otherwise specially allowed, be held responsible for the Government revenue, and be liable to sale in the event of any arrear accruing on account of the settlement.—Reg. VII., 1822, sec. x., cl. 5.

365. If any person or persons shall attend, and shall object to the jumma proposed to be assessed, then, should a settlement be made with the other parties present, the objecting parties shall be left in the enjoyment of the same rights and interests as they would enjoy in the event of the mehaul being farmed or held khas; and in so far as regards the lands to which such rights and interests attach, the other parceners, if their engagements be extended thereto, shall be considered farmers of the Government revenue, to hold the same under leases of such term as may be determined and agreed upon under the general rules applicable to lands for which the proprietors may refuse to engage.—Reg. VII., 1822, sec. x., cl. 6.

366. When any mehaul, or portion of a mehaul, held by a number of cultivating proprietors in putteedaree or bhyachara tenure, or the like, shall be let in farm or held khas, the rent demandable from the proprietors of such mehaul or portion of mehaul, on account of the land occupied and cultivated by themselves, shall be adjusted by the rates payable by ryots, or other resident cultivators not having an heritable and transferable property in the soil, for lands of a similar description in the same or in the adjoining villages, with a deduction of five per cent. on account of malikana, or such other rate, not being less than five per cent., as Government may determine. —Reg. VII., 1822, sec. x., cl. 7.

367. When it shall be determined to make a settlement of a mehaul of the above description with one or more of the parceners selected to manage, collect, and account for the public revenue as sudder malguzar, then and in that case the interests of the non-engaging parceners shall not be held answerable for the default of the sudder malguzars, save and except in so far as may be specifically provided. Such parceners shall, until regularly separated, continue to hold their lands as subordinate proprietors, subject to the payment of rent or revenue to the sudder malguzar at the rates and in the mode heretofore in use, excepting in so far as that usage may be affected by the determination of Government in regard to the distribution of the net rent or profit derived from the limitation of the Government demand, or by the rules now in force, or hereafter to be enacted, for vesting the sudder malguzars with specific powers over the subordinate tenants in the collection of the rent or revenue demandable from them. The responsibility attaching to the persons selected as sudder malguzars, and the conditions under which they are to hold that title of management, will in each case be specifically declared at or after the time when the settlement is confirmed. The conditions and limitations under which the subordinate proprietors shall be admitted to separate engagements will also be similarly declared.—Reg. VII., 1822, sec. x., cl. 8.

368. Provided further, that in all cases wherein different parcels of land belonging to any mehaul may be separately owned and occupied by different proprietors, or by different bodies of proprietors, it shall be competent to the Board of Revenue, or other authority exercising the powers of that Board, to cause a separate settlement to be made for the land owned and occupied by each proprietor, or by each body of proprietors, and each parcel of land for which a separate settlement may be so made shall be held exclusively responsible for the revenue assessed upon it. Provided also, that if the several parties possessing a joint property, or separate properties subject to a common obligation as aforesaid, or any of them, shall apply to a collector, or other officer making or revising a settlement, to have separate possession of their several share or shares in such joint property, or to be admitted to separate engagements, it shall be competent to such collector or other officer, with the sanction of the Board, or other authority to which he may be subordinate, to make a partition of the property among the different parties according to their respective interests, and to make a separate settlement with each of them, or with such as may desire to enter into separate engagements.—Reg. VII., 1822, sec. x., cl. 9.

369. In all cases wherein any proprietors may be excluded from engagements, the collector shall be careful to let it be known that all persons possessing a property in the mehaul are entitled to have their names recorded in the roobakarree of settlement, with the amount or rate of the assessment demandable from each.—Reg. VII., 1822, sec. x., cl. 10.

370. The collector's proceedings in forming the registry above directed shall be founded on

the basis of actual possession, and that officer shall in every instance be careful to record the precise nature of the authority on which the entries in his books may be made. In conformity with the above principle, it shall be competent to the collectors or other officers when making or revising settlements, or otherwise deputed to investigate and determine the circumstances of any mehaul, and the nature of the tenures connected with it, to correct the errors or omissions of former settlements by admitting to engagements, or entering on the public records, the names of the persons found in the bonâ fide possession of land, or in the receipt of rent under a proprietary title; and in such cases the collector will hold an official proceeding, explaining fully the grounds on which he may act.—Reg. VII., 1822, sec. xi.

371. In cases in which the proportion of the Government jumma and village expenses payable by each proprietor, and by each body of proprietors comprised in the several puttees, behrees, and other divisions of an estate held under putteedaree or bhyachara tenure, or the like, may have been originally fixed on a measurement of the lands occupied by each, with reference to the quantity in cultivation, and may be liable by the usage of the country to periodical adjustment on the same principle, if the collector or other officer making or revising the settlement shall be satisfied, by examination of the putwarries' accounts or otherwise, that the contributions paid by any proprietor, or body of proprietors as aforesaid, are materially in excess of the amount justly demandable from them, it shall be competent to him, with the previous sanction of the Board, to cause a new distribution to be made of the revenue and charges payable by each with reference to the above principle, and to such resolutions as Government may have passed relative to the apportionment of the net rent or profits arising out of the limitation of the Government demand, and in the performance of this duty to employ the canoongoe, and such person or persons as he may judge it advisable to appoint, and to settle the jumma payable by the different parties according to the award of such person or persons, or otherwise as shall appear to be just and equitable.—Reg. VII., 1822, sec. xii., cl. 1.

372. In like manner, in cases in which the several proprietors shall be entitled not only to an adjustment from time to time of the jumma payable on account of the lands occupied by them, but likewise to a periodical partition of the lands of the village, with reference to the share recorded as belonging to each, it shall be competent to the collector to cause a fresh partition of the lands, and adjustment of the jumma, to be made as above prescribed, and at the same time to fix and declare the period from which the arrangement as finally settled is to have effect, and to adjust the claims of the parties relative to the revenue intermediately paid by them, as may appear equitable; provided, however, that no such partition or adjustment shall be final until confirmed by the Board of Revenue, or other authority exercising the powers of that Board; provided also, that if any parties shall dispute the existence of the usage under which the partition of the lands shall have been made, and shall claim to be restored to possession of the lands which the collector may have transferred to another, or shall consider himself entitled to the benefit of a new partition of the lands comprised in the mehaul to which he may belong, in any case in which the collector may have refused to order it, it shall be competent to the said party to bring a regular suit in the Zillah Court against the person or persons to whom the lands may have been transferred, or the person or persons who may resist the partition, to try the justness of the collector's decision; but if the existence of the usage shall be admitted or established, it shall not be competent to the Courts of Judicature to question the accuracy of the partition of the land, or adjustment of the jumma; and whenever the decision of a collector for the partition of any land shall be set aside, it will of course belong to the revenue authorities to re-adjust the jumma with reference to the interests of the parties as defined and settled by the final decision of the Courts of Judicature, and to the conditions of the tenure, and to any general or special resolution of Government relative to the distribution of the net rent or profit arising out of the limitation of the public assessment.—Reg. VII., 1822, sec. xii., cl. 2.

### *Judicial Powers of Collectors.*

373. Collectors, and other officers exercising the powers of collectors, shall not, unless where specially authorized in the manner prescribed in this or some other Regulation, do any act tending to disturb possession, but shall leave the Adawlut to investigate in a regular suit all claims of persons not in possession, but deeming themselves entitled to be so.—Reg. VII., 1822, sec. xiii.

374. Collectors making or revising settlements shall, in cases in which any dispute may exist in regard to the nature of the tenure of any person occupying the soil, be competent to declare in an official proceeding, to be incorporated in the roobakarree of settlement, the nature and extent of the interests actually possessed by such occupant, referring to the denomination heretofore applied to him only as one means of proof in regard to the nature of the interest, but stating at length, with specification of any examination he may take for his satisfaction, the

grounds of his determination; so also in cases of dispute regarding the extent of the interest belonging to any sharer in a village or villages held under putteedaree, bhyachara, or the like tenure, such sharer having actual possession of a portion of such village or villages, or being in the actual receipt as proprietor of a share of the joint profits of the land, it shall be competent to the collector to decide the point in the first instance in his roobakarree of settlement, and to enforce his decision, leaving the party who may deem himself aggrieved to seek redress by a regular suit in the Courts, to try the right; but nothing herein contained shall be construed to authorize the Courts to interfere with the decision of the collector in regard to the amount or proportion of jumma to be assessed on any parcel of land, or in respect to the quantity and description of land to be assigned in partition to the holder of any specific share of a joint estate.—Reg. VII., 1822, sec. xiv., cl. 1.

375. The above rule shall not be construed to empower collectors, unless otherwise authorized, to take cognizance of any claim, to receive a larger portion of the common profits than the claimant has hitherto enjoyed, or to hold a larger portion of the village or villages than he has hitherto occupied.—Reg. VII., 1822, sec. xiv., cl. 2.

376. The decisions passed by the collectors under the above powers, if not altered or annulled by the Board or by Government, shall be maintained by the Courts, unless on investigation in a regular suit it shall appear that the possession held under such a decision is wrongful; and nothing herein contained shall be understood to authorize any Court to interfere with the decision of the revenue authorities relative to the jumma to be assessed on any mehaul, or portion of a mehaul, or to the extent and description of lands belonging to any mehaul that may be assigned on the partition of the same to the several parceners concerned.—Reg. VII., 1822, sec. xiv., cl. 3.

377. If any person shall complain to a collector, or other officer making or revising the settlement of any mehaul, that he has been wrongfully dispossessed from any lands, premises, crops, orchards, pasture-grounds, fisheries, wells, watercourses, tanks, reservoirs, or the like, within such mehaul, or of the rents, produce, or profits of such lands, premises, &c., the like as aforesaid, or that he has been wrongfully disturbed in the possession thereof, it shall be competent to the collector, or other officer aforesaid, to inquire into the matter, and if the party so complaining shall appear to have been in possession in the year preceding that in which the complaint is brought, and there shall otherwise be reason to believe that he has been violently or wrongfully dispossessed or disturbed, it shall be competent to the collector to restore or confirm him, recording the grounds of his determination in a roobakarree; and the opposite party shall in such case be left to bring a regular suit in Court to try the question of right. In like manner should a collector, or other officer as aforesaid, find that there exist in any mehaul, of which he may be making or revising the settlement, any disputes relative to the possession of lands, premises, or the like, which it may be expedient to adjust, it shall be competent to the collector, or other officer aforesaid, to pass a decision determining the point of possession, leaving the question of right, if further disputed, to be settled by the result of a regular suit in the Adawlut.—Reg. VII., 1822, sec. xiv., cl. 4.

378. The above provisions will be held to apply to all cases in which a zemindar or undertenant, whether farmer or ryot, having, by special deed or prescriptive title, a right of occupancy, shall have been wrongfully ousted from the occupancy of lands held and cultivated by him in the preceding year, or in which the rents and profits of any land which were received by such dispossessed party in the preceding year shall be withheld from him without a legal award, or a voluntary act of the party involving the transfer, renunciation, or relinquishment of such rents and profits. But the above rule shall not apply to any case in which the complaining party may have executed any deed purporting to be a relinquishment of possession, unless it shall have been established by some judicial proceeding that such deed was extorted by force and terror, nor to any cases wherein the complainant shall have in any way lost or relinquished possession previously to the commencement of the year preceding that in which the complaint may be preferred.—Reg. VII., 1822, sec. xiv., cl. 5.

379. In the settlement of any resumed mehaul held or pretended to be held under sunnuds from the ruling power, or from the aumils, or other officers of the Government, whether such lands shall have been heretofore subject to the payment of revenue or otherwise, it shall be competent to the collector or other officer making the settlement to hear, try, and determine all claims to the property and possession of the land comprising such mehaul, or the rents or produce thereof, anything in the existing Regulations notwithstanding, and subject to the orders and direction of the Board of Revenue, or other authority exercising the powers of that Board, to give possession to, and conclude a settlement with, the party who may appear to have the best title, leaving other claimants to establish their claims by a regular suit in the Zillah Court, by which, according to the value of the interest at stake, all decisions passed by the revenue authorities under this paragraph may, on such suit being fully heard, sued, and determined, and not otherwise, be revised, annulled, or altered. The above rule shall not extend to lands held free of assessment under grants made by or at the request of the proprietors themselves, or their representatives, the settlement of which

shall ordinarily be made with the parties in possession, if willing to engage on adequate terms.—Reg. VII., 1822, sec. xv.

380. It shall be competent to the Governor-General in Council to grant to a collector making or revising the settlement of any mehaul, whether the same may have been held by a lakhiraj tenure resumed, or being malguzary, may have become open to resettlement in ordinary course, special authority to hear, try, and determine as above, all claims to the property and possession of the lands lying within such mehaul, or the rent or produce thereof, and to give possession to the party who may appear to have the best title, subject to the orders and direction of the Board, and further subject, as above, to the revision of the Zillah Court on a regular suit; provided also, that whenever special authority may be given to any collector as aforesaid, notice of the order of Government shall be published by a proclamation within the mehauls, to which the authority so given may extend; and it shall be the duty of the collectors and the Boards to see that such proclamation is duly made. But no decision passed by a collector under this or any other rule whereby such notification is required, shall be disturbed by any Court of Judicature, otherwise than after a full and regular investigation of merits on the plea that proclamation was not made.—Reg. VII., 1822, sec. xvi.

381. It shall be competent to collectors and other officers engaged in making or revising the settlement of any pergunnah, mouzah, or other local division, on the application of persons claiming a right of property in lands held free of assessment, or at a mocurruree jumma, under unquestioned grants from the ruling power, or from the aumils, or other officers of Government, and situate within or adjoining to such pergunnah, mouzah, or other local division, to receive, try, and determine the claim; and if satisfied that the applicants do possess, or are entitled to possess, a hereditary and transferable property in the land, or the produce or rent thereof, the collector or other officer, with the sanction of Government previously obtained, shall be authorized to conclude a settlement with them on behalf of the lakhirajdar or mocurrureedar, for such period as the Governor-General in Council may direct, and shall grant to each of the said proprietors pottahs, defining the conditions on which they are to hold their lands, subordinate to the lakhirajdar or mocurrureedar. It shall further be competent to the collector, under the orders of the Board of Revenue, to fix and declare the amount of malikana, or other proprietary allowance, to be paid by such lakhirajdars or mocurrureedars to the said proprietors, in the event of their being divested of the occupancy and management of their lands: provided, however, that either party who may be dissatisfied with the decision of the collector as to the question of the right of property, shall be at liberty to contest the same in a regular suit in the Adawlut; but the Court shall not interfere to alter the terms on which the settlement may have been made by the collector with proprietors, or the amount of malikana granted to such persons.—Reg. VII., 1822, sec. xvii.

382. The collector shall in cases of doubt be the judge of the question of jurisdiction, subject to the orders of the Board and of Government, and the Courts of Judicature shall not disturb possession given by the collector, except on a regular suit, and on a decision as to the right.—Reg. VII., 1822, sec. xviii.

383. It shall be competent to collectors when prosecuting the above inquiries, or hearing and trying the above suits or otherwise, when authorized in that behalf by the Board to which they may be subordinate, to require all sudder malguzars, and other persons owning, occupying, managing, or cultivating any lands within or in the vicinity of the mehaul to which their inquiries may extend, or gathering or disposing of the produce thereof, or collecting, enjoying, or appropriating any rent or revenue, derived therefrom, as well as the gomashtahs, or other agents employed by such persons in the management or cultivation of the land, or in the collection of the rent, produce, or revenue thereof, to attend and produce all accounts or other papers which they may respectively possess relative to such lands, produce, rent, or revenue, and to examine the said persons on oath, or hulufnamah, to the truth of the accounts produced, or on any other matter relating to such accounts, or regarding the lands, produce, rent, or revenue of the mehaul, or the rights and interests attaching to such lands, produce, rent, or revenue; provided, however, that no person shall be compelled to answer on oath or solemn declaration any interrogation regarding matters wherein he may have an immediate personal interest in concealing the truth, or in uttering what is false, not being an interest arising out of fear, favour, or reward, or any corrupt bargain or agreement with another party.—Reg. VII., 1822, sec. xix., cl. 1.

NOTE.—See Act XX., 1848, in respect of the Lower Provinces.

384. The rules contained in Sectoin XI., Regulation II., 1819, relative to the mode of serving process on persons who may be required to attend and produce accounts under the provisions of that Regulation shall be and be held applicable to processes issued by collectors or other officers under the rules contained in this Regulation. In like manner, the provisions of Section XII., of the said Regulation shall be applicable to all putwarries, gomashtahs, or other persons, by whom the accounts of any lands, regarding which the said inquiries may have been instituted, may

be kept, and who, after being duly summoned as aforesaid, may neglect or omit to produce any of the accounts required from them, or to give their evidence regarding them, or who may deliberately give a false deposition on oath, or solemn declaration, when summoned and examined as aforesaid, or who may alter, fabricate, falsify, or mutilate the accounts which they may be required to produce; provided further, that collectors and other officers employed in the settlement of the land revenue, or in any of the inquiries specified in this Regulation, shall be vested with all the powers and authority which are or may be lawfully exercised by collectors in cases depending before them under Regulation II., 1819, and the rules contained in Clause third, Sections XIII., XIV., and XIX., of the said Regulation, shall be and be held applicable to all persons who may be summoned by any collector or other officer aforesaid, or who may resist the process of a collector issued under the rules of this Regulation, or who may refuse to take an oath, or subscribe a solemn declaration when required, or who may deliberately give a false deposition on oath, or under a solemn declaration taken instead of an oath, or may cause or procure another to do so.—Reg. VII., 1822, sec. xix., cl. 2.

385. To prevent doubts as to the period for which collectors and other officers aforesaid are to possess the powers vested in them by these rules, in regard to any mehauls of which the settlement may have been, or may be about to be made or revised, it is hereby declared and enacted, that they shall be held and considered to be engaged in making and revising such settlement, from the date on which they have issued or may issue orders for adjusting the boundaries, for measuring any of the lands, or for making a census of the inhabitants of any village or portion of a village belonging to such mehaul, of which intimation shall be given to the magistrate or joint magistrate within whose division the village shall be situated, up to the day on which they may be informed that the settlement, as made and revised by them, has been finally confirmed by Government.—Reg. IV., 1828, sec. ii., cl. 4.

### *Summary Suits for Rent, &c.*

NOTE.—For the general rules upon this subject, see "REALIZATION OF RENT."

386. The powers specified in paragraphs 370 to 372, 374 to 378, and 380 to 384, shall be ordinarily exercised by collectors when employed in making or revising settlements of the land revenue, and shall extend to all the lands comprised in the pergunnah in which he may be so employed; but it shall be competent to the Government, by an order in council to be publicly proclaimed in the district, to restrict the authority of collectors and other officers making settlements in such manner, and to such extent, as he may, from time to time, judge expedient. In like manner, it shall be competent to Government to vest such collectors as may from time to time be judged fit, with a special authority to receive, try, and determine in the first instance, subject to a regular suit in the Adawlut as above provided, all or any of the questions of the nature specified in the aforesaid paragraphs, though the said collectors may not be engaged in making or revising a settlement of the land revenue, and to vest in such of the collectors as may be thought proper, authority (either generally, or within such limits as may be from time to time determined) to receive, try, and determine by summary process all suits for rent which may be preferred by zemindars, talookdars, or other sudder malguzars or farmers of land, or by any person in their behalf, against any dependent talookdar, zemindar, under-renter, ryot, or other under-tenant of whatever denomination, as well as all applications by ryots and the under-tenants contesting the demand of a sudder malguzar or farmer; and all complaints preferred by ryots or other under-tenants of whatever description, against landholders or farmers of land, or their respective agents or representatives, on account of excessive demand or undue exaction of rent, whether levied by distraint or otherwise, as well as all suits relative to the adjustment of accounts between landholders and farmers of land or under-tenants of whatever description, with their sureties, or with any agents or persons employed by them in the management of land, or the collection or payment of the rent of land, and to all other matters immediately connected with the demand, receipt, or payment of the rent of land, whether malguzary or lakhiraj, or with the rent of orchards, pasture grounds, and fisheries, commonly denominated phulkur, bunkur, and julkur, or with any other asset of the land revenue, not included in the sayer abolished, together with all complaints of the non-delivery of pottahs when demandable under the Regulations, or complaints of the prescribed receipts not being given for actual payment of rent, and, generally, complaints of any deviation from the Regulations, or from the established usage of the country relative to the matters aforesaid, or any violation of subsisting engagements in disputes respecting the rent and occupancy of land, between landholders or farmers of land and their under-tenants of whatever denomination.—Reg. VII., 1822, sec. xx., cl. 1.

387. The appointment of the collector to the discharge of the above duties, and the extent of the jurisdiction to be assigned to him, shall be notified by proclamation in the district, after such

manner as the Governor-General in Council may direct; and after the publication of such notice all summary suits, actions, applications, and complaints of the above nature, and referring to lands or the rents, produce, or accessions of land lying within the jurisdiction assigned to the collector as above, which may be preferred in the Zillah or City Adawlut by any sudder malguzar, zemindar, talookdar, farmer, ryot, or other proprietor or under-tenant of land, shall, immediately on being received, be referred for trial to the collector, to whom also all such summary suits depending at the time shall be transferred; provided also, that in such cases, parties having suits or complaints to prefer, of which the cognizance may be vested as above in the collector, shall be at liberty to prefer them to that officer in the first instance. It shall in like manner be competent to the Governor-General to fix, by an order in Council the period at which the special powers given as above to a collector, and the authority to be ordinarily exercised by those officers on the occasion of making settlements, shall cease and determine.—Reg. VII., 1822, sec. xx., cl. 2.

388. No complaint or application of the nature specified in the preceding rules shall be received by a collector under the rules of this Regulation, unless the plaint or application shall have been preferred within the period of one year after the cause of action shall have arisen.—Reg. VII., 1822, sec. xx., cl. 3.

389. It shall be competent to the Governor-General in Council to vest any collector, or other officer exercising the powers of collector, within the provinces of Bengal, Behar, Orissa, and Benares, with the several powers specified in paragraphs 386, 387, and 388, in the manner specified in paragraph 387, within such local limits as may, from time to time, appear to be advisable; and the several provisions contained in the following paragraphs shall apply to the several pergunnahs or other local divisions so placed under the jurisdiction of the collector, or other officer aforesaid.—Reg. IX., 1825, sec. iii.

390. In summary suits for rents and the like, wherein special rules have been prescribed for regulating the process of the Courts, the collectors shall be guided by the same rules, and shall exercise the same powers and authority as are or may be lawfully exercised by the zillah and city judges. In other cases falling under their cognizance, according to the provisions of this Regulation, the ordinary process for securing the attendance of the defendant or party otherwise impleaded shall be to issue a notice reciting the matter and requiring the defendant or other party to attend in person, or by representative, at such time and place as may be made choice of by the collector for conducting the investigation; should any party fail to attend after being served with a notice of the above description, or should the return of the nazir or person employed to serve the notice be, that after diligent search the party or parties cannot be found, proclamation shall be made in writing, to be stuck up at or near the ordinary residence of the party, stating that after fifteen days from the date of publishing the same the case will be liable to be brought up for trial and judgment; and any party implicated, who having been served with the notice above described shall fail to attend, or who shall continue to absent himself, will be as much bound by the judgment that may be passed as if he or they had been in attendance to plead.—Reg. VII., 1822, sec. xxi.

391. Sections XVIII. and XIX., Regulation VIII., 1819, are hereby extended to all the provinces immediately subject to the presidency of Fort William, and the provisions of the said sections shall be applicable to the proceedings of collectors held under this Regulation; provided, however, that whenever it shall be desired to apprehend a defaulter residing out of the jurisdiction of the collector, by whom the suit relative to the alleged arrear may be cognizable, the process of arrest shall be served through the judge of the district where the alleged defaulter may reside.—Reg. VII., 1822, sec. xxii.

392. It is hereby declared and enacted, that in so far as concerns the summoning and examination of witnesses, the penalties for false testimony, for resistance of process, contempts, and all other similar matters connected with cases under cognizance before the collectors of land revenue, or other officer, by virtue of the powers vested in them by this Regulation, or any other Regulation whereby collectors are vested with judicial powers, their cutcherry or office for the time being shall be deemed and held to be a Court of Civil Judicature.—Reg. VII., 1822, sec. xxiii., cl. 1.

393. Provided also, that the regular suits which may be brought to contest decisions passed by collectors, under the powers vested in them by paragraphs 370, 371, 372, and 374 to 388, shall be of the nature of an appeal to Court in its regular jurisdiction from a summary award. It shall not therefore be necessary for the collector or other officer of Government to be a party in the action.—Reg. VII., 1822, sec. xxiii., cl. 2.

394. Collectors of the land revenue are hereby empowered to execute all awards made by them under the rules of this Regulation in cases wherein a specific sum of money shall be adjudged to be due, or any costs or damages be awarded; the collector decreeing the same shall proceed to levy the amount for the party in whose favour it may be adjudged, by the process in use for the recovery of arrears of the Government revenue. In cases of summary awards for arrears of rent,

the collector shall have the power of selling the lands on which the arrear has accrued; but he shall not in any other cases sell any lands, houses, or other real property, in satisfaction of any judgment passed in favour of any individual, on a summary inquiry. In cases wherein possession of lands, houses, watercourses, or the like, may be adjudged, it may and shall be lawful for the collector making the award to deliver over possession in the same manner, and with the same powers in regard to all contempts, resistance, and the like, as are or may be lawfully exercised by the Courts in giving possession to an auction purchaser; and the Zillah or City Adawlut shall support the collectors in the exercise of the above power, and shall give effect to any orders passed by them in pursuance of it, in the like manner as if the same had been passed by themselves. Collectors are further hereby empowered to place one or more peons, mirdahs, suwars, or the like, to aid in the maintenance of possession for the party to whom it may be awarded, in case of his deeming such a measure necessary or expedient.—Reg. VII., 1822, sec. xxiii., cl. 3.; Act VIII., 1835, sec. i.

395. It shall and may be lawful for a collector, or other officer exercising the powers of collector, preparatory to making or revising a settlement as aforesaid, to depute any tehseeldar, canoongoe, aumeen, or other fixed or temporary officer, to any village or mehaul, whether the same be managed by a zemindar or farmer, or be held khas, to inquire into the various matters which such collector or other officer is required or empowered to investigate, in order to form a settlement in the mode prescribed by this Regulation. Any such native officer so deputed as above shall be deemed to be vested with the power of summoning and examining putwarries, gomashtahs, or other persons by whom the accounts of the village or mehaul may be kept, in the same manner and with the same powers as is provided for officers deputed under Section XXV., Regulation XII., 1817. Furthermore, in case the collector or other officer may so prescribe, the said tehseeldar, or other person, shall be empowered to make a measurement of the village or mehaul into which they may be deputed, and to summon any mocuddums, purdhans, ryots, or other residents, and to call upon them to point out the boundaries of such village or mehaul, and to furnish information as to all matters relating to the land, and the rights and interests attaching thereto; and any person contumaciously withholding information from an officer deputed as aforesaid, shall be liable, on the same being established to the collector's satisfaction, to the same penalty as is prescribed for putwarries refusing to attend or give evidence.—Reg. VII., 1822, sec. xxiv., cl. 1.

396. Provided also, that any person who may by force or threats obstruct or resist the execution of any legal process, requisition, or order of a collector or other revenue officer, shall, in addition to the penalties prescribed by the existing Regulations for such act, be liable to a fine not exceeding two hundred rupees, or to imprisonment in the Dewanny jail for a period not exceeding two months; the said fine or other penalty to be adjudged by the collector, after proceeding duly held and recorded, and the sentence to be immediately reported to the Board to which he may be subject.—Reg. VII., 1822, sec. xxiv., cl. 2.

397. Provided further, that all police-officers shall aid and support the execution of all process and orders issued by a collector, or other officer aforesaid, on the responsibility of the officer issuing or executing the same; and if any affray or breach of the peace shall occur in consequence of any resistance or obstruction being made, or attempted to be made, to the legal process or order of a collector or other revenue officer, the parties resisting or obstructing such process or order shall be punishable for the affray or breach of the peace, and the revenue officers shall not be liable to any criminal prosecution on that account.—Reg. VII., 1822, sec. xxiv., cl. 3.

398. It shall be competent to the parties in all suits, the cognizance of which is hereby vested in the collectors of revenue, to employ any agent, vakeel, or representative, whom they may think proper to appoint, to act and plead in their behalves, provided such agent, vakeel, or representative, be duly empowered by the parties. The rate of remuneration to such agent or vakeel shall be left to be adjusted between himself and his constituent; but no greater sum shall be awarded on this account for costs payable by the party against whom the judgment may be passed, than what may be deemed by the collector a fair equivalent for the attendance of such agent.—Reg. VII., 1822, sec. xxv.

399. No other pleadings shall be required from the parties in such suits than a plaint and answer; provided, that if the parties should at any time wish to file an amended plaint or an amended answer, or any explanatory motion, such subsidiary pleadings shall be received.—Reg. VII., 1822, sec. xxvi.

400. The mookhtarnamas or vakalutnamas, and the pleadings and final decree in such suits, shall be written on stamped paper of the value of eight annas, whatever may be the amount of the suit; and no fees shall be taken on exhibits tendered in the cause, or for the witnesses required by the parties; nor shall it be necessary for the parties to present a written motion on stamped paper for the filing of such exhibits, or for the summoning of such witnesses.—Reg. VII., 1822, sec. xxvii.

401. It shall be competent to the collectors to hear and determine such suits in whatever part of the district they may occasionally be or reside, provided that every hearing and decision be in public cutcherry, or in some other place open to the public, and in the presence of the parties, or of their constituted agents or vakeels, if in attendance.—Reg. VII., 1822, sec. xxviii.

*Appeals to the Board of Revenue.*

402. The decisions of the collectors on all such suits shall be appealable to the Board of Revenue, or other authority exercising the powers of that Board. The petition of appeal shall be presented either to the collector or to the Board, at the option of the party, and shall be written on stamped paper of the value of two rupees; but no petition of appeal shall be received after the expiration of three months from the date of the decision, unless sufficient cause shall be shown for the delay to the satisfaction of the Board; provided also, that the Board shall not be required in ordinary cases to go into a regular investigation of the merits, but shall be authorized to dismiss the appeal without further investigation, in all cases in which, on a consideration of the final roobakarree of the collector, they may not see ground to consider the decision of that officer to be unjust, erroneous, or doubtful, or his proceedings in the case irregular or imperfect; provided also, that in all cases in which the collector may dismiss the suit for non-attendance, or on some other ground of default, without an investigation of the merits of the case, it shall be competent to the Board to direct a new trial, and in cases in which he may neglect or delay the investigation or decision of a suit without sufficient cause, it shall be competent to the Board to interfere, and to cause the collector to proceed upon the inquiry into and determination of it.—Reg. VII., 1822, sec. xxix., cl. 1.

403. No pleadings, except the petition of appeal, shall be required in such appeals, nor shall any fees be taken by the Board on the exhibits originally filed, or on any further documents which the Board may think it necessary to call for.—Reg. VII., 1822, sec. xxix., cl. 2.

404. If the parties choose to employ in the pleading of such appeals the same agents or vakeels who were previously employed by them in the original suit, no further mookhtarnamah or vakalutnamah shall be required of them.—Reg. VII., 1822, sec. xxix., cl. 3.

405. The respondent shall receive notice of the appeal, but shall not be compelled to appear in person, or by vakeel, and the appeal shall be decided on the merits of the case, notwithstanding his absence, in the same manner as if he had attended.—Reg. VII., 1822, sec. xxix., cl. 4.

406. The decision of the Board shall be final in as far as concerns the result of the summary inquiry of the collector, and shall be rendered in a Persian roobakarree, written on stamped paper of the value of two rupees.—Reg. VII., 1822, sec. xxix., cl. 5.

*Regular Suits in Civil Courts to try the Merits of Collectors' Decisions.*

407. Any person, however dissatisfied with the summary judgment of the collector or the Board, and desirous of a more full and formal decision, shall be at liberty to prefer a regular suit to try the merits of the case in the Zillah or other similar or superior Court in which it may be cognizable. In such cases the summary judgment of the collector, if not reversed or stayed by the Board, shall be carried into effect, notwithstanding the institution of the regular suit.—Reg. VII., 1822, sec. xxix., cl. 6.

408. All persons having claims or complaints to prefer of the nature of those made cognizable by collectors under the provisions of this Regulation, and not wishing to avail themselves of the summary process authorized in that Court, shall be at liberty to institute their claims or complaints in the first instance, by a regular suit before the local moonsiff, or in the Zillah or City Adawlut, according as the suit may be cognizable in these Courts respectively, under the general Regulations for the administration of civil justice.—Reg. VII., 1822, sec. xxx.

409. Whenever a regular suit may be instituted in a Civil Court, with a view to set aside or alter a summary judgment passed by a collector, the proceedings held on the summary inquiry shall be called for by precept from the Court, and filed on the record of the case.—Reg. VII., 1822, sec. xxxi., cl. 1.

410. Such suits shall be cognizable or referable according to their amount to principal sudder aumeens, sudder aumeens, and moonsiffs. All sudder aumeens and moonsiffs shall, in cases tried by them, be held and bound by the decisions passed, and records prepared, by collectors or other revenue officers under the provisions of this Regulation, unless the same shall have been rescinded or altered by the Board, or by the Zillah, or other similar or superior Court on a regular suit.—Reg. VII., 1822, sec. xxxi., cl. 2; Act XXV., 1837, sec. ii.

411. No suit shall be entertained in any Court for contesting the justice of any award made before the passing of this Act (10th June, 1848) by the revenue authorities under any of the

preceding rules, after the expiration of twelve years from the date of the final award.—Act XIII., 1848, sec. i.

412. After the expiration of three years from the passing of this Act, no such suit shall be entertained for contesting the justice of any such award made before the passing of this Act.—Act XIII., 1848, sec. ii.

413. No such suit shall be entertained for contesting the justice of any such award made after the passing of this Act, after the expiration of three years from the date of the final award.—Act XIII., 1848, sec. iii.

414. The collectors shall transmit to the Boards such periodical reports of the causes decided by or depending before them as the Boards may direct; and the Boards will also furnish to Government such abstracts of those reports, and such reports in the cases received and determined by them in appeal, as the Governor-General in Council shall from time to time require.—Reg. VII., 1822, sec. xxxii.

*Reference to Arbitration.*

415. It shall be competent to collectors, or other officers exercising the powers of collectors, to refer to arbitration any disputes cognizable by them under the provisions of this Regulation, as well as any questions or disputes of any kind respecting land or the tenures therein, or the rights dependent thereon that may come before them, provided the parties consent to that mode of adjustment; and, on award being made, to cause the same to be executed. In referring cases to arbitration under the above provision, and in their general proceedings relative to such suits, the collector shall be guided by the rules contained in Regulation XVI., 1793, and the other corresponding enactments, and in Regulation VI., 1813, in so far as the same may be applicable, and shall be competent to vest in the arbitrators the same powers and authority in regard to the summoning and examination of witnesses, and the administration of oaths and affirmations, and to enforce the orders passed by the arbitrators under such powers in the same manner as the Courts of Judicature are empowered to do; and all awards made on such references shall, when confirmed by the collector, have the same force and validity as a regular decree of the Adawlut, and shall not be liable to be reversed or altered, unless the award shall be open to impeachment on the ground of corruption, or gross partiality, or shall extend beyond the authority given by the submission of the parties, and such ground of impeachment shall be established in a regular suit in the zillah, city, or other superior Court wherein the case may be cognizable.—Reg. VII., 1822, sec. xxxiii., cl. 1.

416. In referring any dispute to arbitration, the collector shall be careful to specify in his proceedings, and in the deed of arbitration to be executed by the parties, the precise matter submitted to the arbitrators, and if the award first made by the arbitrators shall not include all the points submitted to them, or shall be otherwise incomplete, it shall be competent to the collector again to refer the matter to them, with directions to perfect their award.—Reg. VII., 1822, sec. xxxiii., cl. 2.

417. The pergunnah canoongoes and tehseeldars may be appointed arbitrators in any case referred to arbitration under the above rules; anything in the existing Regulations notwithstanding.—Reg. VII., 1822, sec. xxxiii., cl. 3.

418. Whenever any judicial question may be depending before a collector or other officer employed in making settlements under the foregoing provisions, in which the interests of justice may, in the opinion of such officer, require that the case be decided by arbitration, it shall be lawful for him to fix, under the instructions with which he may be furnished by the superior revenue authorities, a period within which the parties must produce the award.—Reg. IX., 1833, sec. v.

419. In that case, if the parties shall refuse or neglect to produce such award within the term limited, it shall be lawful for the collector or other officer to summon a punchayet, to be composed of three or five impartial and otherwise competent persons, of good repute, for the trial of the matter at issue.—Reg. IX., 1833, sec. vi.

420. After duly considering the statements and evidence offered by the parties, or in case of the default or recusance of either, the statements and evidence produced by the party in attendance, the punchayet shall declare their opinions, and judgment shall be recorded according to the sentence of the majority. The superior revenue authorities will from time to time issue such rules of practice for the guidance of the officers employed on this duty, or the punchayets, as they may consider necessary.—Reg. IX., 1833, sec. vii.

421. No appeal shall be allowed from such decisions which shall be immediately executed and maintained, unless the commissioner, subject to the control of the Sudder Board of Revenue, should think proper, for any special reason, to direct that the case shall be submitted to another punchayet for decision.—Reg. IX., 1833, sec. viii.

422. Any suit brought before any Court of justice to set aside a decision made in conformity with the above rules shall be nonsuited with costs.—Reg. IX., 1833, sec. ix.

423. In like manner, any suit brought before any Court of justice against the arbitrators, collectively or individually, appointed in conformity with the rules prescribed, to recover from them the value of the property lost by the decision founded on their award, shall be nonsuited with costs.—Reg. IX., 1833, sec. x.

*Powers of Collectors to settle Disputed Possession.*

424. When a collector, or other officer exercising any of the powers vested in collectors by the rules of this Regulation, relative to complaints of dispossession, or disturbance of the possession of lands or premises, shall learn, either by a reference from the magistrate, or by a report from any other public officer or otherwise, that any disputes exist within the tract placed under his jurisdiction, relative to any lands, premises, crops, orchards, pasture-grounds, fisheries, wells, watercourses, tanks, reservoirs, or the like, likely to terminate in the breach of the peace, it shall and may be lawful for the collector, or other officer aforesaid, to require the contending parties to attend in person or by representative, at a stated time and place, and after investigating the case in the presence of the parties, or their representatives, or such of them as may attend, or referring it to arbitration as above prescribed, to decide the case in the same manner as if it had been brought before him by the complaint of one of the parties; provided also, that if the fact of previous lawful possession cannot be ascertained, it shall be competent to the collector, subject to the orders and direction of the Board, to decide on the question of right, and to give possession to one of the contending parties, leaving the other party to contest the decision by a regular suit in court; but no such decision shall be passed by any collector until he shall have instituted a careful inquiry into the fact of possession, and the Board shall be careful to see that this restriction is observed; provided further, that in such cases it shall be competent to the collector to attach the disputed lands, premises, &c., as aforesaid, and to appoint an officer to the management of the same, retaining in deposit the rents and produce, or such portion thereof as may remain after discharging any public revenue demandable therefrom, with the charges of management, until one of the contending parties shall be placed in possession.—Reg. VII., 1822, sec. xxxiv., cl. 1.

425. During the period that collectors or other officers may be engaged in making or revising settlements, the powers vested in magistrates or joint magistrates in cases of forcible dispossession or disturbance in the possession of land or other property, shall be suspended, and they shall be guided, in respect to such mehauls, by the provisions of the following paragraph.—Reg. IV., 1828, sec. ii., cl. 4.

426. Whenever any magistrates or joint magistrates shall have before them any suit, complaint, or information relative to any dispute regarding lands, premises, crops, watercourses, or the like, which may appear likely to terminate in a breach of the peace, or which it may otherwise be desirable to bring to an immediate decision, it shall be the duty of such magistrate or joint magistrate, in cases in which the collector shall be vested with the cognizance of such actions, to certify the case to that officer, and the collector will then forthwith proceed to investigate and determine the case under the rules above prescribed: provided also, that in all cases of forcible dispossession, or forcible disturbance of possession, the collector shall invariably transmit to the magistrate or joint magistrate a copy of the first proceeding held by him in the case, and also a copy of the roobakarree containing his final award. All police-officers are required to give immediate and efficient support to collectors and other revenue officers in the execution of their duties.—Reg. VII., 1822, sec. xxxiv., cl. 2; and Reg. IV., 1828, sec. ii., cl. 4.

427. The collector shall in all such cases use every proper means for inducing the parties to refer their disputes to arbitration, in like manner as the Dewanny Courts are directed to do.—Reg. VII., 1822, sec. xxxiv., cl. 3.

*Construction of Certain Terms.*

428. Whenever the term "Board of Revenue," or "Board of *Commissioners*," may occur in this or any other Regulation, the same shall be held and considered to apply to any Board, committee, or commission, and to any member of such Board, committee, or commission, that may be vested by the Governor-General in Council with the powers and authority of the Board of Revenue, save and except in so far as may be otherwise specially declared and provided. In like manner, all rules in this or any other Regulation, whereby any duties or powers may be prescribed for, or vested in collectors, shall be held and considered to be equally applicable to any officer exercising the authority of collector under the orders, or with the sanction of the Governor-General in Council.—Reg. VII., 1822, sec. xxxv.

# LAND REVENUE.

## REALIZATION OF REVENUI

### TABLE OF ENACTMENTS.

| Original Regulation or Act. | | | Paras. in Consolidation. | REMARKS. |
|---|---|---|---|---|
| 1793. | XIV. | ii. | | Repealed by sec. i., Act XII., 1841. |
| | | iii. | 40 | |
| | | iv. | | Superseded. |
| | | v. | 54 | |
| | | vi. | 57 | |
| | | vii. | | Rescinded by sec. ii., Reg. VII., 1830. |
| | | viii. | 58 | |
| | | ix. to xi. | | Rescinded by sec. xi., Reg. III., 1794. |
| | | xii. | 59 | |
| | | xiii. | | Rescinded by cl. 1, sec. ii., Reg. XI., 1822. |
| | | xiv. | | Rescinded by sec. xi., Reg. III., 1794. |
| | | xv. to xxi. | 60 to 66 | Parts relating to Provincial Courts omitted. |
| | | xxii. | | Rescinded by sec. xi., Reg. III., 1794. |
| | | xxiii. | | Superseded by cl. 6, sec. xxiii., Reg. VII., 1799. |
| | | xxiv. | 67 | |
| | | xxv. to xxviii. | | Rescinded by cl. 1, sec. ii., Reg. XI., 1822. |
| | | xxix. | 69 | Part superseded by the rescission of secs. ix. and x. |
| | | xxx. to xxxix. | 70 to 79 | Parts relating to Provincial Courts omitted. |
| | | xl. | 2 | |
| | | xli., xlii., xliii. | 80, 81, 82 | |
| | | xliv. | 51 | |
| | | xlv. to xlviii. | 83 to 86 | |
| 1794. | III. | ii. | | Rescinded by sec. i., Act XII., 1841. |
| | | iii. | 49 | |
| | | iv. to vii. | | Rescinded by sec. xxii., Reg. VII., 1799. |
| | | viii. | 2 | |
| | | ix., x. | | Rescinded by sec. xxii., Reg. VII., 1799. |
| | | xi. | | A rescinding rule. |
| | | xii. | 68 | |
| | | xiii. | 52 | |
| | | xiv. | 50 | |
| 1795. | VI. | ii., iii. | 100, 101 | |
| | | iv., v. | 103, 104 | |
| | | vi. | 106 | First part superseded by Reg. XXI., 1806. |
| | | vii., viii. | 107, 108 | |
| | | ix. | | Superseded by Reg. VII., 1807. |
| | | x., xi. | 109, 110 | |
| | | xii. | | Rescinded by sec. ii., Reg. VII., 1830. |
| | | xiii., xiv. | 111, 112 | |
| | | xv. | 114 | |
| | | xvi. | 117 | |
| | | xvij. 1 to 4. | 119 to 122 | |
| | | 5. | | Rescinded by sec. ii., Reg. VII., 1830. |
| | | xviii. 1, 2. | 124, 125 | |
| | | 3. | 127 | |
| | | 4. | 129 | |
| | | xix. | | Rescinded by sec. ii., Reg. XI., 1822. |

| Original Regulation or Act. | Paras. in Consolidation. | REMARKS. |
|---|---|---|
| 1795. VI. | | |
| xx. to xxii. | 130 to 132 | |
| xxiii. | 133 | Same as paragraph 61. |
| xxiv. | 134 | |
| xxv. | 135 | Same as paragraph 63. |
| xxvi. | 136 | Same as paragraph 64. |
| xxvii. | 137 | |
| xxviii. | 138 | Same as paragraph 66. |
| xxix. | | Rescinded by cl. 1, sec. ii., Reg. XI., 1822. |
| xxx. | 139 | |
| xxxi. | 143 | |
| xxxii. to xxxiv. | | Rescinded by cl. 1, sec. ii., Reg. XI., 1822. |
| xxxv. | 144 | |
| xxxvi. to xliv. | 145 to 153 | Same as paragraphs 70 to 78. |
| xlv. | 154 | |
| xlvi. | 155 | Same as paragraph 3. |
| xlvii. to xlix. | 156,157,158 | Same as paragraphs 80, 81, 82. |
| l. | 159 | Same as paragraph 51. |
| li., lii. | 160, 161 | Same as paragraphs 84, 85. |
| liii. | 162 | |
| 1799. VII. xxi. | | Unnecessary. |
| xxii. | | A rescinding rule; unnecessary. |
| xxiii. 1. | | Rescinded by cl. 1, sec. ii., Reg. VII., 1830. |
| 2. | 41, 55, 56 | Part omitted, as unnecessary. |
| 3. | 44 | |
| 4. | | Part rescinded, and part superseded by Reg. XII., 1817. |
| 5. | | Superseded by sec. iii., Act I., 1845. |
| 6. | 45, 46 | Modification from Act VIII., 1835, introduced. Part omitted, as unnecessary. |
| 7. | 58 | Incorporated with sec. viii., Reg. XIV., 1793. |
| 8. | | Superseded by sec. iii., Act I., 1845. |
| xxiv. | | Unnecessary. |
| xxv., xxvi. | | Under "Realization of Rent" and "Court of Wards." |
| xxvii. | | Unnecessary. |
| xxviii. | | Rescinded by cl. 1, sec. ii., Reg. XI., 1822. |
| xxix. 1. | | Superseded. |
| 2 to 5. | | Rescinded by cl. 1, sec. ii., Reg. XI., 1822. |
| xxx., xxxi. | | "Board of Revenue." |
| 1800. V. xx. | | Unnecessary. |
| xxi. | | Superseded by sec. viii., Reg. VII., 1830. |
| xxii. | 113 | First part, being recital, is unnecessary. |
| xxiii. | 115, 118 | Parts unnecessary. |
| xxiv. | 116 | |
| xxv. | | Part rescinded, and part superseded by Reg. XII., 1817. |
| xxvi. | | First part unnecessary; the latter superseded by sec. iv., Act I., 1845. |
| xxvii. | | Extension of sec. xv. to end of Reg. III., 1794. |
| xxviii. | | "Board of Revenue." |
| 1801. I. ii. | 42, 43 | First part omitted, being merely recital; part rescinded by sec. ii., Reg. VII., 1830. |
| iii. | | Rescinded by cl. 1, sec. ii., Reg. XI., 1822. |
| iv. | 48 | |
| v. to vii. | | Rescinded by cl. 1, sec. ii., Reg. XI., 1822. |
| viii. | | Under "Settlement;" last part rescinded by sec. ii., Reg. XII., 1817. |
| ix. | | Part rescinded by sec. iii., Act I., 1845; part under "Under-Tenures." |
| x. | 22 | Part superseded; last part relates to "Attendance of Proprietors." |
| xi. | | Rescinded by cl. 1, sec. ii., Reg. XI., 1822. |
| xii., xiii. | | Rescinded by sec. ii., Reg. XIX., 1814. |
| xiv. | | "Talooks." |
| xv. | | Unnecessary |
| 1803. XXVII. | | |
| ii. 1 to 4. | 89 to 90 | |
| 5, 6. | | Superseded by Reg. XXI., 1806, and cl. 6 rescinded by sec. iii., Reg. XIV., 1807. |

| Original Regulation or Act. | Paras. in Consolidation. | REMARKS |
|---|---|---|
| 1803. XXVII. | | |
| ii. 7 to 11. | 91 to 95 | |
| 12. | 100 | |
| iii., iv. | 102, 103 | |
| v. to viii. | 105 to 108 | |
| ix. | | Superseded by Reg. VII., 1807. |
| x., xi. | 109, 110 | |
| xii. | | Superseded by Act XII., 1841. |
| xiii. | 111 | |
| xiv. | 112, 113 | |
| xv. 1 to 3. | 114 to 116 | |
| 4. | | Part rescinded, and part superseded by Reg. XII., 1817. |
| xvi. | 117, 118 | |
| xvii. 1 to 4. | 119 to 122 | |
| 5. | | Rescinded by cl. 1, sec. ii., Reg. XI., 1822. |
| xviii. 1. | 124 | |
| 2. | 126 | |
| 3. | 128 | |
| 4. | 129 | |
| xix. | | Rescinded by cl. 1, sec. ii., Reg. XI., 1822. |
| xx. to xxviii. | 130 to 138 | |
| xxix. | | Rescinded by cl. 1, sec. ii., Reg. XI., 1822. |
| xxx. | 140,141,142 | Last paragraph of cl. 3 omitted. |
| xxxi. | 143 | |
| xxxii. | 144 | |
| xxxiii. to xli. | 145 to 153 | Same as paragraphs 70 to 78. |
| xlii. | 154 | |
| xliii. | 155 | Same as paragraph 3. |
| xliv. to xlvi. | 156,157,158 | Same as paragraphs 80, 81, 82. |
| xlvii. | 159 | Same as paragraph 51. |
| xlviii., xlix. | 160, 161 | Same as paragraphs 84 and 85. |
| l. | 162 | |
| li. | | "Attendance of Proprietors." |
| lii. | 163 | |
| liii. | | "Settlement." |
| 1806. XXI. | | |
| ii. to v. | 96 to 99 | Parts relating to Police superseded by Reg. XIV., 1807. |
| 1812. V. | | |
| xxiv., xxv. | 24, 25 | |
| xxvi., xxvii. | | Civil Judicature. |
| xxviii. | | Rescinded. |
| 1818. X. ii. | | Superseded by sec. ii., Act I., 1845. |
| iii. to v. | 164 to 169 | |
| vi. | | Superseded by sec. ii., Act XII., 1841 |
| vii., viii. | 170, 171 | |
| 1822. XI. ii. 1. | | Rescissions. |
| 2. | 30 | |
| 3. | | Unnecessary. |
| iii. to xxxv. | | Rescinded by sec. i., Act XII., 1841. |
| xxxvi. | 35 | |
| xxxviii. | | Civil Judicature. |
| 1825. IX. iv. | 172 | |
| 1830. VII. | | Rescissions only; unnecessary. |
| 1835. VIII. | 46 | |
| 1841. I. ii. to xi. | 173 to 182 | |
| XII. ii. | 3 | The rest of the Act repealed by sec. ii., Act I., 1845. |
| 1845. I. ii. | 1 | |
| iii. to xx. | 4 to 21 | |
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| xxii. | 26 | |

## TABLE OF DIVISIONS.


| TITLES OF DIVISIONS. | Nos. of Paragraphs. |
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# LAND REVENUE.

## REALIZATION OF REVENUE.

### SALE.

1. If the whole or a portion of a kist or instalment of any month of the era, according to which the settlement and kistbundy of any mehaul have been regulated, be unpaid on the first of the following month of such era, the sum so remaining unpaid shall be considered an arrear of revenue.—Act I., 1845, sec. ii.

2. Arrears of tuccavy, or any money advanced by Government to proprietors or farmers of land, for making or repairing embankments, reservoirs, or water-courses, or other improvements to their estates or farms, are to be recovered by the same process as is prescribed for exacting payment of arrears of revenue, and under the same rules and restrictions, as far as they may be applicable. —Reg. XIV., 1793, sec. xl.; Reg. III., 1794, sec. viii.

3. There shall be no demand of interest or penalty upon any arrear of land revenue.—Act XII., 1841, sec. ii.

4. Upon the promulgation of this Act, the Sudder Board of Revenue at Calcutta shall determine upon what dates all arrears of revenue and all demands, which by the Regulations and Acts in force are directed to be realized in the same manner as arrears of revenue, shall be paid up in each permanently settled district or zillah under their jurisdiction, in default of which payment the estates in arrear in those districts, except as hereinafter provided, shall be sold at public auction, to the highest bidder. And the said Board shall give notice of the dates so fixed in the official Gazettes, and shall direct corresponding publication to be made, as far as regards each district, in the language of that district, in the office of the collector or deputy collector, or other officer duly authorized to hold sales under this Act, in the Courts of the judge, magistrate (or joint magistrate, as the case may be), principal sudder aumeens, sudder aumeens, and moonsiffs, and at every thanna station of that district; and the dates so fixed shall not be changed except by the said Board by advertisement and notifications, in the manner above described, to be issued at least three months before the close of the official year preceding that in which the new date is, or dates are, to take effect.—Act I., 1845, sec. iii.

5. In districts not permanently settled, and in the province of Benares, no sale shall take place for arrears of land revenue or other demands of Government without the special sanction of the Sudder Board of Revenue previously obtained in each several case of sale. Provided that the said Board, at the time of authorizing such sale, shall fix the latest day on which in each case such arrears or demands shall be received.—Act I., 1845, sec. iv.

6. Provided always, that no estates shall be sold for the recovery of arrears or demands, of the descriptions mentioned below, otherwise than after a notification in the language of the district, specifying the nature and amount of the arrear or demand, and the latest date on which payment thereof shall be received, shall have been affixed for a period of not less than fifteen clear days preceding the date fixed for payment, according to paragraphs 4 and 5, as the case may be, in the office of the collector or other officer duly authorized to hold sales under this Act in the Court of the judge within whose jurisdiction the land advertised lies, in the Courts of the principal sudder aumeens and sudder aumeens of the district, and in the moonsiff's Court and police thanna of the division in which the estate to which the notification relates, or a part of it, is situated, the same to be certified by the receipt of the officer at whose office such notification may have been affixed, and also at the cutcherry of the malguzar of the estate, or at some conspicuous place upon the estate, the same to be certified by the peon or other person employed for the purpose.

*First.* Arrears due from estates in the province of Benares.

*Secondly.* Arrears due from estates not permanently settled.

*Thirdly.* Arrears other than those of the current or of the preceding year.

*Fourthly.* Arrears due on account of estates other than that to be sold.

*Fifthly.* Arrears of estates under attachment by order of any judicial authority.

*Sixthly.* Arrears due on account of tuccavee, poolbundee, or other demands not being land revenue, but recoverable by the same process as arrears of land revenue.—Act I., 1845, sec. v.

7. The collector or other officer duly authorized to hold sales under this Act shall, as soon as possible after the latest day of payment fixed in the manner prescribed in paragraphs 4 and 5,

issue notifications in the language of the district, to be affixed in his own office and in the Court of the judge of the district, and to be published in the official Gazettes, specifying the estate or estates which will be sold as aforesaid, and the day on which the sale of the same will commence, which day shall not be less than fifteen or more than thirty clear days from the date of affixing the notification in the office of the collector or other officer as aforesaid. And except as hereinafter provided, all estates, so specified, shall, on the day notified for sale, or on the day or days following, be put up to public auction by and in the presence of the collector or other officer as aforesaid, and shall be sold to the highest bidder. And no payment or tender of payment made subsequent to sunset of the said latest day of payment, shall bar or interfere with the sale, either at the time of sale or after its conclusion.—Act I., 1845, sec. vi.

8. Whenever an estate is notified for sale as provided by the preceding paragraph, the collector or other officer as aforesaid shall affix a proclamation, in the language of the district, in his own office, and as soon thereafter as may be in the moonsiff's Courts and police thannas within which the estate, or any part of it, is situated, and also at the cutcherry of the malguzar of the estate, or at some conspicuous place upon the estate, forbidding the ryots and under-tenants to pay rent to the defaulting proprietor or proprietors from the date of the day after that fixed for the last day of payment, on pain of not being entitled to credit in their accounts with the purchaser for any sums paid after the date aforesaid.—Act I., 1845, sec. vii.

9. No claim to abatement or remission of revenue, unless the same shall have been allowed by the authority of Government, nor any private demand or cause of action whatever held or supposed to be held by any defaulter against Government, shall bar a sale, or render a sale under this Act void or voidable; nor shall the plea that money belonging to the defaulter, and sufficient to pay the balance or part of it, was in the collector's hands, bar a sale, or render a sale under this Act void or voidable, unless such money stand in the defaulter's name alone and without dispute, and unless, after application in due time made by the defaulter, the collector shall have neglected or refused, on insufficient grounds, to transfer it to the credit of the estate.—Act I., 1845, sec. viii.

10. Collectors shall, at any time before sunset of the latest day of payment, receive as a deposit from any party not being a proprietor of the estate in arrear, the amount of the arrear of revenue due from it, to be carried to the credit of the said estate at sunset as aforesaid, unless before that time the arrear shall have been liquidated by a proprietor of the estate. And in case the party so depositing, whose money shall have been credited to the estate in the manner aforesaid, shall be a plaintiff in a suit pending before a court of justice for the possession of the same or any part thereof, it shall be competent to the judge of the zillah in which such estate is situated, to order the said party to be put into temporary possession of the said estate, subject to the rules in force for taking security in the case of appellants and defendants. And if the party depositing, whose money shall have been credited as aforesaid, shall prove before a competent Civil Court that the deposit was made in order to protect an interest of the said party, which would have been endangered, or damaged, by the sale of the estate, he shall be entitled to recover the amount of the deposit with interest, from the proprietors of the said estate.—Act I., 1845, sec. ix.

11. No estate shall be liable to sale for the recovery of arrears which have accrued during the period of its being under the management of the Court of Wards, and no estate, the sole property of a minor or minors, and descended to him or them by the regular course of inheritance duly notified to the collector for the information of the Court of Wards, but of which the Court of Wards has not assumed the management under Regulation VI., 1822, shall be sold for arrears of revenue accruing subsequently to his or their succession to the same, until the minor or minors, or one of them, shall have attained the full age of eighteen years. And no estate held under attachment by the revenue authorities, otherwise than by order of judicial authority, shall be liable to sale for arrears accruing whilst it was so held under attachment; and no estate held under attachment by a revenue officer, in pursuance of an order of judicial authority, shall be liable to sale for the recovery of arrears of revenue accruing during the period of such attachment, until after the end of the year in which such arrears accrued.—Act I., 1845, sec. x.

12. It shall be competent to the collector, at any time before the sale of an estate shall have commenced, to exempt such estate from sale; and in like manner it shall be competent to the commissioner of revenue, at any time before the sale of an estate shall have commenced, to exempt such estate from sale by a special order to the collector to that effect in each case; and no sale of an estate shall be legal if held after the receipt of an order of exemption in respect to such estate. Provided, however, that the collector or commissioner shall duly record in a proceeding the reason for granting such exemption; and provided also, that an order for exemption so issued by the commissioner shall not affect the legality of a sale which may have taken place before the receipt by the collector of the order for exempting it from sale.—Act I., 1845, sec. xi.

13. Sales shall ordinarily be made by the collector or other officer duly authorized by Government in that behalf in the land revenue cutcherry at the sudder station of the district; provided, however, that it shall be competent to the Sudder Board to prescribe a place for holding sales

other than such cutcherry, whenever they shall consider it beneficial to the parties concerned.—Act I., 1845, sec. xii.

14. In case the collector, or other officer as aforesaid, shall be unable from sickness, from the occurrence of a holiday, or from any other cause, to commence the sale on the day of sale fixed as aforesaid, or if, having commenced it, he be unable, from any cause, to complete it, he shall be competent to adjourn it to the next day following, not being Sunday or other close holiday, recording his reasons for such adjournment, forwarding a copy of such record to the commissioner of revenue, and announcing the adjournment by a written proclamation stuck up in his cutcherry, and so on, from day to day, until he shall be able to commence upon, or to complete the sale; but with the exception of adjournment so made, recorded, and reported, each sale shall invariably be made on the day of sale fixed in the manner aforesaid.—Act I., 1845, sec. xiii.

15. That on the day of sale fixed according to paragraph 7, sales shall proceed in regular order; the estate to be sold bearing the lowest number on the towjee or registers in use in the collector's office of the district being put up first, and so on, in regular sequence; and it shall not be lawful for the collector or other officer as aforesaid to put up any estate out of its regular order by number, except where it may be necessary to do so on default of deposit, as provided in the following paragraph.—Act I., 1845, sec. xiv.

16. The party who shall be declared the purchaser of an estate at any such public sale as aforesaid, shall be required to deposit immediately, or as soon after the conclusion of the sale of the estate as the collector may think necessary, either in cash, Bank of Bengal notes, or post bills, or Government securities duly indorsed, twenty-five per cent. on the amount of his bid; and in default of such deposit, the estate shall forthwith be put up again and sold.—Act I., 1845, sec. xv.

17. The full amount of purchase-money shall be made good by the purchaser before sunset of the thirtieth day from that on which the sale of the estate bought by him took place, reckoning that day as one of the thirty; or if the thirtieth day be a Sunday, or other close holiday, then on the first office day after the thirtieth: and in default of payment within the prescribed period as aforesaid, then and afterwards, as often as such default shall occur, the deposit shall be forfeited to Government, the estate shall be re-sold, and the defaulting purchaser shall forfeit all claim to the estate, or to any part of the sum for which it may subsequently be sold; and in the event of the proceeds of the sale which may be eventually consummated being less than the price bid by the defaulting bidder aforesaid, the difference shall be leviable from him by any process authorized for realizing an arrear of public revenue, and it shall be so levied and credited to the defaulting proprietor of the estate sold; and if default of payment of purchase-money shall have occurred more than once, the defaulting bidders shall be held jointly and severally responsible for such difference to the extent of the amount of their respective bids. Provided always, that every such re-sale shall be made after notification and in the forms prescribed by paragraph 7; and that such notification shall not be issued until the expiration of three clear days after the day on which the default shall have occurred. Provided also, that payment, or tender of payment, by or on behalf of the proprietor of the arrear for which the estate was first sold, and of the arrear which may have subsequently become due, if such payment, or tender of payment, be made before sunset of the day preceding the day of the notification of re-sale, and after the defaulting purchaser shall have made the deposit required by the preceding paragraph, shall bar such re-sale.—Act I., 1845, sec. xvi.

18. It shall be lawful for the commissioner of revenue to receive an appeal against any sale made under this Act, if preferred to him on or before the fifteenth day from the date of sale, reckoning as in the preceding paragraph; or if preferred to the collector for transmission to the commissioner, on or before the tenth day from the day of sale, and not otherwise; and the commissioner shall be competent, in every case of appeal so preferred, to annul any sale of an estate made under this Act, which shall appear to him not to have been conducted according to the provisions of this Act, awarding, at the same time, to the purchaser a payment from the proprietor of any moderate compensation for his loss, if the sale shall have been occasioned by neglect of the proprietor, such compensation not to exceed interest, at the current rate of Government securities, on the amount of deposit or balance of purchase-money during the period of its being retained in the collector's office; and the order of the commissioner shall, in such cases, be final.—Act I., 1845, sec. xvii.

19. It shall be competent to the commissioner of revenue, on the ground of hardship or injustice, to suspend the passing of final orders in any case of appeal from a sale, and to represent the case to the Sudder Board of Revenue, who, if they see cause, may recommend to the local Government to annul the sale; and the local Government in any such case may annul the sale, and cause the estate to be restored to the proprietor on such conditions as may appear equitable and proper.—Act I., 1845, sec. xviii.

20. All sales of which the purchase-money has been paid up as prescribed in paragraph 17, and against which no appeal shall have been preferred, shall be final and conclusive at noon of the thirtieth day from the day of sale, reckoning the said day of sale as the first of the said thirty

days. And sales against which an appeal may have been preferred, and the appeal dismissed by the commissioner, shall be final and conclusive from the date of such dismissal, if more than thirty days from the day of sale, or if less, then at noon of the thirtieth day, as above provided.—Act I., 1845, sec. xix.

21. Immediately upon a sale becoming final and conclusive, the collector, or other officer as aforesaid, shall give to the purchaser a certificate of title in the following form:—

I certify that A. B. has purchased at public auction, under Act No. I. of 1845, Mehaul C., and that his purchase has taken effect on and since the —— day of —— (being the date of the day after that fixed for the last day of payment).

(Signed) D. E., Collector.

And the said certificate shall be deemed in any court of justice sufficient evidence of the title to the estate sold being vested in the person or persons named, from the date specified: and the collector shall also notify such transfer by written proclamation in his own cutcherry, and in those of the moonsiff and darogah of the jurisdictions within which any part of the estate sold shall be situated, and also at the cutcherry of the malguzar of the estate, or in some conspicuous place on the estate; and shall apply the purchase-money first to the liquidation of all arrears due upon the latest day of payment; and secondly, to the liquidation of all outstanding demands debited to the mehaul in the public accounts of the district, holding the residue, if any, in deposit on account of the late recorded proprietor or proprietors of the estate sold, to be paid to their receipt on demand in the manner following: to wit, in shares proportioned to their recorded interest in the estate sold, if such distinction of shares were recorded, or if not, then as an aggregate sum to the whole body of proprietors upon their joint receipt. Provided that if, prior to payment of any surplus that may remain of the purchase-money after liquidation of all Government arrears and dues to the proprietor of the estate sold, or his representative, the same may be claimed by creditors in satisfaction of debts due by him to them, or by any one creditor, such surplus shall not be payable to any such claimant, nor shall it be withheld from the proprietor by attachment, except under precept, and in satisfaction of decrees of Court for such debts; and if the balance of purchase-money have in any such case been paid away in liquidation of the proprietor's just debts by order of any Court, and a decree shall afterwards pass for annulling the sale, the proprietor shall not be restored to possession until the amount so paid away be returned by him with interest.—Act I., 1845, sec. xx.

22. All purchasers of lands at the public sales are required to attend the collector of the zillah wherein the lands may be situated, either in person or by their representatives duly authorized, and to execute the usual kabooleeat and kistbundy for the public revenue assessed upon the lands purchased by them.—Reg. I., 1801, sec. x.

23. Any suit brought to oust the certified purchaser as aforesaid, on the ground that the purchase was made on behalf of another person, not the certified purchaser, though by agreement the name of the certified purchaser was used, shall be dismissed with costs.—Act I., 1845, sec. xxi.

24. Sales made of entire estates for the recovery of arrears of public assessment are not liable to be annulled by the courts of judicature, on the ground that one or more of the sharers may not have obtained possession of his or their interest in the property. The consideration of, and decision on, the expediency of selling the entire estate, or of disposing in the first instance of any particular part of it, is hereby declared to reside in the Board of Revenue, subject to the control exercised by the Government, in its executive capacity, in matters connected with the public revenue.—Reg. V., 1812, sec. xxiv.

25. No means existing by which any certain or accurate computation can be formed à priori of the real value of any estate, or portion of estate, which may be exposed to sale for the recovery of arrears of public assessment, or of the adequacy of the price which may be offered for such estate, or portion of estate; it is hereby declared, that sales made at public auction for that purpose are not liable to be annulled by the courts of judicature, on the ground that the proceeds of the sales have materially exceeded the amount of the arrears due from the proprietor of the lands to Government. The Board of Revenue and the Commissioners will be guided in cases of that nature by their own discretion, subject of course to any instructions with which they may at any time be furnished by the Governor-General in Council.—Reg. V., 1812, sec. xxv.

26. The annulment of a sale by a commissioner shall be publicly notified by the collector or other officer as aforesaid, in the same manner as the becoming final and conclusive of sales is required to be notified by paragraph 21, and the amount of deposit and balance of purchase-money shall be forthwith returned to the purchaser, with interest thereon at the highest rate of the current public securities, from the dates on which they were respectively paid in to the date on which the refund is actually made.—Act I., 1845, sec. xxii.

27. The party certified as the proprietor of an estate by purchase at public sale for the recovery of arrears of revenue shall be answerable for all instalments of the revenue of Government which may fall due subsequently to the latest day of payment aforesaid.—Act. I., 1845, sec. xxiii.

28. No sale for arrears of revenue or other demands realizable in the same manner, made after the taking effect of this Act, shall be set aside by a Court of Justice, except upon the ground of its having been made contrary to the provisions of this Act: and except the contravention thereto shall have been declared and specified in an appeal made to the commissioner under paragraph 18, and except the action in the Civil Court be instituted within one year from the date of the sale becoming final and conclusive, as provided in paragraph 20: and no person shall be entitled to contest the legality of a sale after having received any portion of the purchase-money: provided, however, nothing in this Act contained shall be construed to debar any person considering himself wronged by any act or circumstance connected with a sale under this Act, from his remedy in a personal action for damages against the individual by whose act or omission he considers himself to have been wronged.—Act I., 1845, sec. xxiv.

29. In the event of a sale being reversed by a final decree of a Court of Justice, the purchase-money shall be refunded to the purchaser by Government, together with interest at the highest rate of the current public securities.—Act I., 1845, sec. xxv.

30. The purchaser of an estate sold under this Act, for the recovery of arrears due on account of the same, in the permanently settled districts of Bengal, Behar, Orissa, and Benares, shall acquire the estate free from all incumbrances which may have been imposed upon it after the time of settlement, and shall be entitled, after notice given under Section X., Regulation V., 1812, to enhance at discretion (anything in the existing Regulations to the contrary notwithstanding) the rents of all under-tenures in the said estate, and to eject all tenants thereof, with the following exceptions:—

*First.* Tenures which were held as istemraree or mocurreree at a fixed rent more than twelve years before the permanent settlement.

*Secondly.* Tenures existing at the time of the decennial settlement, which have not been, or may not be, proved to be liable to increase of assessment on the grounds stated in Section LI., Regulation VIII., of 1793.

*Thirdly.* Lands held by khood kasht or kudeemee ryots having rights of occupancy at fixed rents, or at rents assessable according to fixed rules under the Regulations in force.

*Fourthly.* Lands held under bonâ fide leases, at fair rents, temporary or perpetual, for the erection of dwelling-houses, or manufactories, or for mines, gardens, tanks, canals, places of worship, burying-grounds, clearing of jungle, or like beneficial purposes, such lands continuing to be used for the purposes specified in the leases.

*Fifthly.* Farms granted in good faith at fair rents and for specified areas by a former proprietor, for terms not exceeding twenty years, under written leases, registered within a month from their date. Provided that a written notice, specifying full particulars of the position, rent and area of the lands, the terms of the lease and the names of the parties shall at the same time be given by the latter to the collector in every case, and the collector shall be at liberty to object to the same in the event of his seeing reason to believe that the security of the public revenue will be materially affected thereby. The exception declared in this rule shall not extend to leases objected to by the collector, by a notification to be fixed up in his office, with the sanction of the commissioner, within three months of the date of the notice so made to him by the parties. Provided also, that a purchaser of an estate at a sale for arrears of revenue shall be at liberty by suit in court to set aside all such farms, although the same be under written and duly registered leases, and although such notice may have been given as aforesaid, if the same shall not have been granted in good faith at fair rents.—Act I., 1845, sec. xxvi.

31. The purchaser of an estate sold under this Act for the recovery of arrears due on account of the same in districts other than those mentioned in the preceding paragraph, shall acquire the estate free from all incumbrances which may have been imposed upon it after the time of settlement, and shall be competent to avoid and annul all tenures which may have originated with the defaulter or his predecessors, being representatives or assignees of the original engager, as well as all agreements with ryots or the like settled or credited by the first engager or his representatives, subsequently to the last settlement, as well as all tenures which the first engager may, under the conditions of his settlement, have been competent to set aside, alter, or renew, saving always and except bonâ fide leases of ground for the erection of dwelling-houses, or buildings, or for offices thereunto belonging, or for gardens, tanks, canals, water-courses, or the like purposes, which leases or engagements shall, so long as the land is duly appropriated to such purposes, and the stipulated rent paid, continue in force and effect. Provided that nothing in this Act contained shall be construed to entitle any purchaser of land at a public sale to demand a higher rate of rent from any persons whose tenure or agreement may be annulled as aforesaid than was demandable by the former malguzar, except in cases in which such persons may have held their lands under engagements, stipulating for a lower rate of rent than would have been justly demandable for the land, in consequence of abatements having been granted by the former malguzars from the old established rates by special favour, or for a consideration, or the like, or in cases in which it may

be proved that according to the custom of the pergunnah, mouzah, or other local division such persons are liable to be called upon for any new assessment, or other demand not interdicted by the Regulations of Government.—Act I., 1845, sec. xxvii.

32. It shall be competent to the local Government, when it shall seem proper, at any time before a sale for arrear shall have been actually made, to direct it to be made, subject to the leases, assignments, or other encumbrances with which a proprietor in possession, his ancestors, or predecessors, may have burthened his assessed estate, or to such of them as shall appear proper. In all such cases, notice of the condition imposed by the local Government shall be given by the collector at the time of calling up the lot for sale, and such further notification shall be made as the local Government may direct. Provided, however, that in case the sale so restricted shall not realize an amount equal to the arrear due at the time of sale, or there shall appear ground to apprehend, that by reason of the restriction the future realization of the revenue will be endangered, it shall be competent to the local Government, at any time before such restricted sale shall have become final and conclusive in the manner laid down in paragraph 20, to direct the sale to be cancelled, and a new sale of the estate to be made without other restrictions than those contained in the exceptions specified in paragraph 30. If, after the sale has become final and conclusive, occasion should again arise to bring to sale for arrears an estate purchased with a restriction of the above description, it shall at all times be competent to the local Government to direct that the mehaul shall be sold without any other restriction than those contained in the exceptions specified in paragraph 30, or with the reservation before reserved. In the former event, should the purchase-money realized by the unrestricted sale exceed in a large amount the sum obtained at the restricted sale, it shall further be competent to the local Government to direct a portion or the whole of the excess to be paid to persons whose interests, having been reserved at the first, shall become void at the second sale.—Act I., 1845, sec. xxviii.

33. Excepting copartners of estates under butwarra who may have saved their shares from sale under Sections XXXIII. and XXXIV., Regulation XIX., 1814, any recorded or unrecorded proprietor or copartner who may purchase, in his own name or in the name of another, the estate of which he is proprietor or copartner; or who, by re-purchase or otherwise, may recover possession of the said estate after it has been sold for arrears under this Act; and likewise any purchaser of an estate sold for other arrears or demands than those accruing upon itself, shall by such purchase acquire the estate subject to all its incumbrances existing at the time of sale, and shall not acquire any rights in respect to ryots and under-tenants which were not possessed by the previous proprietor at the time of the sale of the said estate.—Act I., 1845, sec. xxix.

34. Arrears of rent which, on the latest day of payment, may be due to the defaulter from his tenants, shall, in the event of a sale, be recoverable by him after the said latest day by any process except distraint which might have been used by him for that purpose on or before the said latest day.—Act I., 1845, sec. xxx.

35. If a collector shall at any time, being so instructed by either the Government or the Board, purchase on account of Government an estate exposed to sale for the recovery of arrears of revenue, the rules applicable to the management of ordinary malguzary mehauls held khas or farmed, shall be considered applicable to such estate, and also to all other estates the property of Government, according as they may be held khas, or let in farm.—Reg. XI., 1822, sec. xxxvi.

36. Any collector, or officer exercising the powers of collector in respect of sales, shall be competent to punish any contempt committed in his presence in open cutcherry or office for the time being, by fine, to an extent not exceeding two hundred Company's rupees, commutable, if not paid, to imprisonment in the civil jail for a period not exceeding one month; and the magistrate to whom such an offender may be sent by a collector as aforesaid shall carry his sentence into effect. Provided that an appeal from any order passed under this paragraph shall lie to the revenue commissioner, whose decision shall be final.—Act I., 1845, sec. xxxi.

37. A default to make good a bid by making the deposit required by paragraph 16 shall be held to be a contempt.—Act I., 1845, sec. xxxii.

38. The operation of this Act shall be confined to the provinces of Bengal, Behar, Orissa, and Benares, now subject to the general Regulations, and to the Ceded and Conquered Provinces similarly subject to the general Regulations, under the Government of the presidencies of Fort William in Bengal; and nothing in this Act contained shall affect land in the town of Calcutta, or the settlements of Singapore, Penang, or Malacca.—Act I., 1845, sec. xxxiii.

### DEMAND—ATTACHMENT.

39. Regulation XII., 1796, and Regulation V., 1800, in so far as the same are applicable to public sales for the recovery of arrears of revenue, together with such parts of Sections III., XXIV., and XXV., Regulation XIV., 1793; Sections VII. and XXXI., Regulation VI., 1795; Section XXIII., Regulation VII., 1799; Section XXXI., Regulation XXVII., 1803, and of any

other of the Regulations in force which prescribe, or shall be construed to prescribe, that the revenue officer shall issue any tullub chittee, dustuk, or other process of demand on persons from whom arrears of revenue, or other demands similarly recoverable, may be due, or that they shall attach the estates or farms in the possession or management of such defaulters, before bringing their property to a public sale, as well as such part of the above-mentioned and any other Regulations which restrict, or can be construed to restrict, the powers of the revenue officers in selecting lands for sale on account of arrears of public revenue, or the period of sale, and which may not be re-enacted by this Regulation, are hereby rescinded.—Reg. XI., 1822, sec. ii., cl. 2.

NOTE.—Notwithstanding the absolute rescission by the latter part of the foregoing paragraph, the course laid down in the following provisions appears to be still followed, and the enactments still appear in works of authority published in India, see "Directions for Revenue Officers, North-Western Provinces," "Abstract of the Revenue Regulations, Calcutta, 1826," and "Marshman's Guide to the Revenue Regulations," in which the apparently rescinded provisions are retained, under the impression, that the course they prescribe is still optionally open to the revenue officers. Such provisions are printed in italics.

40. *When a collector shall have occasion to require payment of an arrear of revenue from any zemindar, independent talookdar, or other actual proprietor of land, or any farmer of land, he is to demand the discharge of it by a writing under his official seal, and attested by his signature and that of his dewan, specifying the amount of the arrear and the date on which it became due, and requiring it to be paid at the treasury of the collectorship within a certain number of days after the day on which the writing may be served, in the manner herein specified. In fixing the day for the payment of the arrear, the collector is to advert to the distance of his place of residence from the estate or farm of the defaulter, and allow a reasonable time for him to convey the money to the public treasury. The collector is to deliver the writing to a single peon, with directions to proceed either to the principal cutcherry of the defaulter in the estate or farm on account of which the arrear may be due, or to the usual place of abode of the defaulter, if it be within the limits of his zillah, according as he may deem advisable. The defaulter, or his head officer in attendance in such cutcherry, is to grant, and the peon is to take, a receipt for the writing, specifying the date on which he may present it. The defaulter, or his officer above mentioned, is to pay to the peon two annas per day for his subsistence (excepting in districts where custom has fixed the subsistence-money of peons at a lower rate, in which case such lower rate and no more, shall be exacted), for the time allowed for delivering the writing and returning to the collector. The name of the peon who may be deputed, the amount of his subsistence-money, and the number of days for which he is to receive it, are to be endorsed on the writing. If the peon deputed to serve the demand for the arrears shall not meet with, or be able to gain admittance to, the defaulter or his head officer, by the evening of the day following the day on which he may arrive at his usual place of abode, or at his cutcherry above specified, or if the defaulter or his head officer shall refuse or omit to give the receipt above required to the peon immediately upon his presenting the writing, he is on the same evening to fix up the writing on the outer door or gate of such place or cutcherry, and return to the collector, to whom he is to report the date on which he may have fixed it up. Written demands for arrears so presented to a defaulter or his head officer, or fixed up at his usual place of abode, or his cutcherry before mentioned, shall be considered to have been duly served upon him.*—Reg. XIV., 1793, sec. iii.

41. In the event of any arrear of revenue being undischarged on the first day of the month succeeding that for which the arrear may be due, the collector, if the revenue be payable into his treasury, or if not, the tehseeldar or other public officer to whom the same may be payable, is *immediately to require payment thereof in the mode prescribed by the preceding rule; and if the arrear shall not be discharged according to such requisition, or assurance given for the immediate payment thereof to the collector's satisfaction, he shall proceed without delay to attach the estate of the proprietor from whom the arrear may be due, or such portion thereof as he may consider fully sufficient to make good by a sale the arrear due, with interest;* or if the arrear be due from a farmer, *shall* proceed without delay *both* to *attach his farm and* arrest his person (as well as the person of his surety, if he have given security) in the mode prescribed.—Reg. VII., 1799, sec. xxiii., cl. 2.

42. *No collector shall attach the estate or farm of any proprietor or farmer of land for arrears of revenue during the three first months of the Bengal, Fusly, or Willaity year (according to the era current in the several zillahs), without the express sanction and order of the Board of Revenue, on a report of the case to be made to them by the collector: nor shall the attachment be subsequently made without such sanction and order, unless the collector shall judge the same expedient, with a view to induce payment of the arrear by the defaulter, or to prevent his misappropriation of the remaining rents of the year, or to obtain accurate information of the assets of the estate for the purpose of disposing of a portion of it by public sale at the close of the year; in either of which cases, the attachment is to take place after the third month of the year; except that, whenever the attachment may be judged advisable for the purposes above stated, the whole estate shall be attached instead of a portion thereof. Provided further, that the exception from the rule for attachment during the three first months of the year shall not be considered applicable to attachments made in the preceding year, and continued after the expiration of it, with a view to the lands being brought to sale for the recovery of the arrear due from them.*—Reg. I., 1801, sec. ii.

43. In all cases where the collectors may not judge it advisable to *attach* the estate or farm of the defaulter for an arrear of revenue, and where the result of the fullest inquiry they may be able to make in such cases shall induce them to believe the arrear wilful, or owing to the neglect, mismanagement, or misconduct of the defaulter, they are to report the same, with a summary of the inquiry made by them, to the Board of Revenue; in like manner as they are required by paragraph 58, to make such report to the Board of Revenue, in cases wherein they may judge it proper to suspend *the attachment of estates or farms in arrear*, on account of any calamity of season or cause of failure not originating in the neglect, mismanagement, or misconduct of the defaulter. The report so required is still to be made by the collectors whenever they may not carry into execution the general rule for *attachments, after the expiration of the third month of the year*; but as a full discretion is now vested in them (subject to the control of the Board of Revenue) for suspending the enforcement of that rule, in all cases where they may judge the same expedient, it is expected that they will be particularly careful to inform themselves, as far as possible, in all instances of arrear, of the real cause of arrear, whether want of good faith on the part of the defaulter, or actual inability from a failure in his rents or otherwise, so that the proper remedy may be applied to the ascertained circumstances of the case, and neither the public interests be injured by unmerited indulgence, or those of the individual suffer from undue severity. When the collectors, from the reports of their mofussil officers, or from other information obtained by them, may have good reason to believe that a defaulter has done his utmost to pay his revenue, but has been prevented by real inability, not proceeding from any personal deficiency, the attachment of his lands, whilst productive of expense and inconvenience to him, can produce no adequate advantage to Government. On the other hand, if it be known that the defaulter has the means of making good his arrear, or that the attachment of his lands will afford assets for the payment of it which might otherwise be misappropriated, *the attachment* would be evidently just and expedient, and whatever expenses or other consequences might arise from it to the defaulter would be chargeable to his own misconduct. The local officers of Government can alone make this discrimination; and the Board of Revenue, in their reports to the Governor-General in Council upon the towjee accounts of the collectors, are required to notice their attention or otherwise to this important part of their duty.—Reg. I., 1801, sec. ii.

44. *After the attachment of the lands of defaulting proprietors, or the attachment of the farms of defaulting farmers, if the arrear due, with any further arrear that may become due from the same proprietor or farmer, be discharged at any period before the end of the current Bengal, Fusly, or Willaity year (as the estate or farm may be situated in Bengal, Behar, or Orissa), together with any expense attending the attachment, which may not have been defrayed from the collections, the attachment shall be immediately withdrawn, and a full and fair account rendered of all receipts and disbursements during the continuance of it. Moreover, all receipts from the estate or farm attached, after paying the establishment of officers required to collect the rents, as provided for in paragraph 57, shall be carried to the credit of the defaulter during the current year, in discharge of the arrear due from him. The whole of the provisions in the above paragraph are also to be considered in full force; except that the injunction to the aumeen to collect according to the engagements subsisting between the defaulter and his under-tenants, is not to be considered applicable to engagements evidently collusive, which may have been contracted in expectation of the attachment, with a view to prevent the officers of Government from receiving the just rents during the continuance of it. In such cases, the aumeen is to collect according to the established rates and usages of the pergunnah, as he is directed to do in cases where no engagement exists between the defaulter and his under-tenants. It is further hereby declared, that no anticipation of the rent will be admitted in cases of attachment.* The landholders and farmers are forbidden to demand or receive, and the ryots and other under-tenants are forbidden to pay, any part of the rents receivable by the former and payable by the latter, before the stipulated or usual period of payment, according to the kistbundy or other engagement, or established local usage; and no person hereafter making anticipated payments against this prohibition, or producing receipts for such, whether collusive or otherwise, shall be entitled to credit for the amount from the officers of Government who may attach the lands or farm, or from the landholder or farmer making the attachment, if it be made for arrears due from an under-tenant. *Nor shall credit be allowed for any payment made to a defaulter after proclamation of the attachment of his estate or farm, until further proclamation be made that such attachment has been withdrawn; unless it can be clearly shown that such proclamation, which is to be made as public as possible throughout the attached lands immediately on the attachment's taking place, was notwithstanding unknown to the party making payment to the defaulter at the time when such payment may have been made. Provided, however, that nothing herein contained shall be understood to exonerate the defaulter from crediting to his under-tenants, or otherwise accounting for, all sums received by him, whether in anticipation of the rents or subsequent to the attachment of his estate or farm, the above restrictions having reference to the attachment only.*—Reg. VII., 1799, sec. xxiii., cl. 3.

NOTE.—See "UNDER-TENURES."

45. Landed property of defaulting farmers which can be *attached*, is to be *brought under attachment* at the same time that their farms are *attached*, subject to the same provisions for withdrawing the *attachment* on payment of the arrear. *The attachment is to be made under the rules prescribed in paragraph 67 for the attachment of lands of sureties.*—Reg. VII., 1799, sec. xxiii., cl. 6.

46. If any arrear remain due from a farmer of land at the close of the current year, any land or property belonging to the defaulter or his surety is to be brought to public sale as soon as possible after the close of the year. The sale shall be public, and shall be conducted by the collector, his deputy, or duly authorized assistant, and ten days' notice shall be given of such sales by advertisement, to be stuck up at the cutcherry of the Zillah Court or local Adawlut, and that of the collector.—Reg. VII., 1799, sec. xxiii., cl. 6; and Act VIII., 1835, sec. ii.

47. It will be at the option of the Governor-General in Council either to cancel the lease of a defaulting farmer from the commencement of the ensuing year, or to compel the defaulter or his surety to perform the conditions of the lease until the term of it shall expire. If the Governor-General in Council shall annul the lease, the defaulter, after making good the arrear due from him to Government, is to be at liberty to prosecute the dependent talookdars, under-farmers, or ryots, included in his farm, for any arrears of rent due to him on account of the period during which his lease remained in force.—Reg. VII., 1799, sec. xxiii., cl. 6.

48. Instances having occurred in which, from the very small extent of certain estates, from their dispersed situation and inconsiderable produce, it has been found impossible to *attach* them without an expense altogether disproportionate to the arrear and value of the estates, the proprietors of which have in consequence withheld the amount due from them, though well able to discharge it; to provide for such cases, the Board of Revenue are hereby vested with authority to order the distress and sale of the personal property of defaulters, as far as may be necessary for the recovery of arrears of revenue or other public demands, whenever, from the reports of the collectors or other information before them, they may consider it just and expedient to have recourse to this mode of recovery, instead of *attaching* the lands of the defaulters; and whenever such distress and sale may be ordered by the Board of Revenue, it is to take place in the mode prescribed for the distress and sale of the personal property of under-tenants for arrears of rent, under a strict observance of the rules established for this purpose. Provided that this special rule be considered applicable only to the particular cases above referred to, in which the general rule for *attachments* cannot with facility be put in execution, and be not in any instance understood to vest the collectors with authority to sell the personal property of any proprietor or farmer of land paying revenue to Government, without the express sanction of the Board of Revenue. In applying for such sanction, the collectors are to make a full report of the circumstances under which they may judge it advisable to have recourse to this special rule; and are to state any pleas which may have been offered for the arrear, with their opinion whether the same are well founded or otherwise. Provided further, that nothing in this paragraph, the operation of which is restricted to the province of Bengal, Behar, and Orissa, shall be considered applicable to the province of Benares, where the rule for the distress and sale of personal property, contained in paragraph 113, and which has reference to the state of landed property and other circumstances peculiar to that province, is to remain in force as heretofore.—Reg. I., 1801, sec. iv.

### ARREST AND IMPRISONMENT.

49. Proprietors of land shall not be liable to be confined for arrears of public revenue, or for any demands of the nature of those specified in paragraph 2, excepting in the cases mentioned in the following paragraph.—Reg. III., 1794, sec. iii.

50. If the whole of the lands of a proprietor shall be sold for the discharge of arrears of revenue, or any of the demands specified in paragraph 2, and the proceeds of the sale shall not be sufficient to make good the arrears, or if the lands of a defaulting proprietor shall be put up to sale and no person shall offer to purchase them; in the first case, the person of the defaulter, and any personal property which he may possess, and in the second, his person and property of every description, shall be liable for the balance to the operation of all the rules regarding defaulting proprietors. Whenever a collector may confine a proprietor under this paragraph, after all his lands have been disposed of, he is immediately to report the circumstances to the Board of Revenue, who are to submit them for the information of the Governor-General in Council.—Reg. III., 1794, sec. xiv.

51. If the lands subject to the payment of revenue to Government, belonging to any defaulting proprietor or farmer of land, or any surety or purchaser of land, which may be sold for arrears of revenue, shall not produce a sum sufficient for the liquidation of the public demand, any other real or personal property which the defaulter may possess is to be sold to make good the deficiency, under the same rules as his lands subject to the payment of revenue are directed to be sold, as far

as those rules may be applicable to such property. And if any property shall be ordered to be put up to sale, and the sale shall be countermanded in consequence of the proprietor discharging the claim upon him, or other cause, he is nevertheless to be held responsible for all expenses that may be incurred, in the same manner as if the sale of it had taken place; and in the event of his omitting to discharge the amount, it is to be levied by the same process as the demand for which the property originally ordered to be sold may have been directed to be levied.—Reg. XIV., 1793, sec. xliv.

52. When arrears shall become due from proprietors or farmers of land, whose revenue may be made payable to a tehseeldar, or other officer appointed by Government to collect it, such officer *is to demand the payment of the arrears by the same process as collectors are required to observe in requiring the discharge of arrears.* If the defaulter shall not liquidate the arrears by the prescribed period, the tehseeldar or other officer is to report the amount of the arrear to the collector, who is to proceed to the recovery of it by the same process as he is directed to observe in recovering arrears due from proprietors or farmers paying revenue immediately to the treasury of the zillah.—Reg. III., 1794, sec. xiii.

53. In like manner, if the tehseeldar, or other mofussil officer intrusted with the collections, shall have reason to believe that any defaulting farmer whose revenue may be payable to him or his surety is prepared to abscond, so as not to allow time for his making report to the collector, as directed in the preceding rule, he is authorized to arrest such defaulter and his surety, without waiting for the collector's process under paragraph 54, by a similar process under his own seal and signature, and to cause the party arrested to be immediately conveyed to the collector, to be further proceeded against in the mode prescribed.—Reg. VII., 1799, sec. xxiii., cl. 2.

54. When a collector shall proceed to the confinement of a zemindar, independent talookdar, or other actual proprietor of land or farmer of land, for the recovery of arrears, he shall depute two peons, but no greater number than two, with a writing under his official seal, and attested with his signature, specifying the amount of the arrear due from the defaulter, and the date on which it became payable, and requiring him to deliver himself into the custody of the peons, that they may convey him to the gaol of the Dewanny Adawlut of the zillah. The peons are to carry the defaulter direct to the gaol. Immediately upon the arrival of the defaulter at the gaol, the collector is to apply to the Court by motion in writing, to be made in open Court, if the Court shall be sitting, through the pleader of Government, for the confinement of the defaulter. If the Court shall not be sitting, the motion is to be presented to the judge out of Court. The motion is to specify the amount of the arrear due from the defaulter, and the date on which it became payable. Upon receipt of the motion, the judge is immediately to order the defaulter to be confined in the gaol of the Dewanny Adawlut, and detain him there until he shall have discharged the arrear for which he may have been taken into custody, and all subsequent arrears that may become due during his confinement, or until the collector shall apply to the Court, by motion made as above directed, to have him released. Peons deputed to take defaulting proprietors or farmers of land into custody under this paragraph, are to receive from the defaulter two annas per day each for their subsistence (excepting in districts where custom has fixed the subsistence-money of peons at a lower rate, in which case such lower rate, and no more, shall be exacted) for the time allowed for taking him into custody and conveying him to gaol. The names of the peons who may be deputed, the amount of the subsistence-money, and the number of days for which they are to receive it, are to be endorsed on the writing. If the defaulter shall not reside or be within the limits of the zillah wherein the lands on account of which the arrear shall be due may be situated, the collector is to order the two peons whom he may charge with the writing to proceed direct to the collector of the zillah in which the defaulter may be or reside, and such collector shall immediately send with them a peon to point out the place of residence of the defaulter. The two peons shall take the defaulter into custody, and convey him to the gaol of the Dewanny Adawlut of the zillah in which they may so apprehend him. The collector who may issue the writing shall forward to the vakeel of Government in such zillah the prescribed motion for the confinement of the defaulter, so that he may have it ready to present to the judge immediately upon the arrival of the defaulter at the gaol. The collector is to be careful, likewise, to specify in the writing for taking the defaulter into custody, the name of the zillah to the gaol of which he is to be conducted. With the above exceptions as to the mode of serving the process, and the gaol in which the defaulter is directed to be confined, all the other rules regarding his case are to be considered equally applicable to it, as if he had been imprisoned in the gaol of the zillah wherein the lands on account of which the arrear shall be due may be situated. All suits or complaints which the defaulter may have to prefer against the collector or his officers, or the ameen who may be deputed to take charge of his lands, are accordingly to be lodged in the Dewanny Adawlut of the last-mentioned zillah, and the judge of the zillah, in the gaol of which the defaulter may be confined, is to give effect to all decrees or orders which may be transmitted to him by the judge of the zillah in which the suits or complaints of the defaulter may be so preferred.—Reg. XIV., 1793, sec. v.

55. Instead of carrying the defaulter forthwith to the gaol of the Dewanny Adawlut, as directed in the preceding rule, the collector, if the defaulter show any disposition to adjust and satisfy the demand upon him, is at liberty to keep him in the custody of peons during a period not exceeding ten days from the date of his arrival at the collector's station; at the expiration of which period, if the arrear be not paid or satisfaction given for the immediate payment thereof, so as to induce the collector to release the defaulter, he is to be brought before the judge of the Dewanny Adawlut, and confined in the gaol of that court as directed in the above rule. This qualification is not meant to restrict the collectors from observing the above rule in any instances where the defaulter may show no disposition to adjust and satisfy the demand upon him; or where, for any other reason, it may appear to them objectionable to suspend the confinement of the defaulter or his surety.—Reg. VII., 1799, sec. xxiii., cl. 2.

56. If the farmer shall have given security, and the collector have no reason to believe that he will abscond, he is not to issue the process prescribed in paragraph 54, for the confinement of the defaulter or his surety, *until the defaulter has been served with the written demand for the arrear;* but if the collector have reason to believe that the defaulter or his security is prepared to abscond, he is authorized to issue the process prescribed both against the defaulter and his surety, *without having issued the previous demand.*—Reg. VII., 1799, sec. xxiii., cl. 2.

57. When a collector shall proceed to confine a zemindar, independent talookdar, or other actual proprietor of land or farmer of land, he is to depute an ameen, with a proper establishment of officers, to collect the rents and revenues from the estate or farm of the defaulter. The collector is to transmit the establishment to the Board of Revenue, who are to submit it to the Governor-General in Council, with a recommendation that it be confirmed or altered, as may appear to them advisable. The expense of the establishment of the ameen, when approved, and all other charges attending his deputation which may be admitted, shall be defrayed by the defaulter, and disbursed from the collections made from his estate or farm. The dewan, or head native officer of the defaulter, or any other person whom he may think proper to appoint, is to keep a counterpart of the accounts of the receipts and disbursements of the ameen. The ameen is to collect according to the engagements that may subsist between the defaulter and his dependent talookdars, under-farmers and ryots, and shall not make any alterations whatever in such engagements, or exact more than the amount specified in them, whether they be conformable to Regulation XLIV., 1793, or not. The ameen shall be liable to a prosecution in the Court of Dewanny Adawlut of the zillah, for any alteration or infringement of such engagements in opposition to this rule. In cases in which no engagements may exist between the defaulter and his dependent talookdars or ryots, the ameen is to collect from them according to the established rates and usages of the pergunnah. The ameen shall likewise be subject to a prosecution by the proprietor of the estate or the farmer, for embezzlement or injuries done to the estate or farm, during the time that the collection of the rents and revenues of it may be entrusted to him. If the estate or farm of the defaulter shall be too inconsiderable to admit of its being charged with the expense of the appointment of an ameen, it shall be committed to the nearest tehseeldar, or other officer, employed under the collector in the business of the collections, who shall perform the duties above prescribed to the ameen, and under the same restrictions and penalties.—Reg. XIV., 1793, sec. vi.

58. If the crops in any farm shall have been damaged or destroyed by drought, inundation, or other calamity of season, or from any cause not originating in the neglect, mismanagement, or misconduct of the farmer, and such farmer shall fall in arrears, so as to subject himself to be confined, and the collector shall be satisfied, from the best information which he may be able to obtain, that the defaulter is unable to make good the arrears by the period limited *in the written demand for the payment of them,* either from the collections on account of such year from his farm, or from his private funds or property, or by a loan, he is directed to suspend the exercise of the powers vested in him for the confinement of the defaulter. But the collector is immediately to report the circumstances of the case to the Board of Revenue, with his reasons for not proceeding against the defaulter as required, and is to be guided by their instructions. The Board of Revenue may suspend enforcement of the current kists, as well as of the interest due thereupon, in such cases; but are not to grant any ultimate remission of the amount demandable on the permanent assessment without the sanction of the Governor-General in Council, as already directed in Section LXIII. of Regulation II., 1793.—Reg. XIV., 1793, sec. viii.; Reg. VII., 1799, sec. xxiii., cl. 7.

59. Every proprietor or farmer of land who may be in confinement for arrears of revenue, and who may deem the demand not warranted by his engagements with Government, is permitted to prosecute the collector by whom he may have been imprisoned, in the Dewanny Adawlut of the zillah wherein the lands on account of which the arrears shall be claimed may be situated, to try the justness of the demand. If no part of the arrear claimed shall be found to be due from him, the judge shall release him, and decree such costs and damages against the collector as he may deem equitable, upon a consideration of the circumstances of the case. If only a part of the demand shall appear due, the Court is to discharge the prisoner upon his paying such part. In

both cases, however, the Court, previous to releasing such person, shall take good security from him to perform the final decision in appeal, in the event of the cause being appealed by the collector in consequence of orders from the Board of Revenue, or without their orders. If the collector shall represent to the Court that an appeal will not be preferred from the decision, or if an appeal shall not be lodged within the time limited for preferring appeals, the judge shall release the person so confined without taking such security.—Reg. XIV., 1793, sec. xii.

RESISTANCE OF PROCESS.

60. If a collector shall issue the process prescribed in paragraph 54 against any zemindar, independent talookdar, or other actual proprietor of land, to convey him to gaol on account of arrears of the public revenue, and the defaulter shall refuse to obey, or resist, or cause to be resisted, the peons deputed by the collector to convey him to gaol, or escape after being taken by them into custody, or abscond, or shut himself up in his own or any house, or in any building, or retire to any place, so that the process cannot be served upon him, the collector who may issue the writing is immediately to represent the circumstances, through the vakeel of Government, to the Dewanny Adawlut of the zillah wherein the lands on account of which the arrears shall be due may be situated; and upon the peons deputed to execute the process, or any two or more credible persons, making oath or affirmation to the truth of the circumstances stated in the representation of the collector, the judge, provided he shall be satisfied in his own mind from such depositions of the witnesses, and their answers upon oath to any questions which he may put to them, that the charge is well founded, shall require the defaulter, by a publication in writing, to deliver himself into the custody of the Court within four weeks, calculating from the day following the date of publication. The publication is to be written in the Bengal language, if the estate of the defaulter shall be in Bengal or Orissa; or in the Hindoostanee language and Nageree character, if it should be situated in Behar; and shall be fixed up, as early after the date of it as may be practicable, at his usual place of abode, or the principal cutcherry in the estate on account of which the arrears may be due, in the office of collector and the court-room of the Dewanny Adawlut of the zillah. The collector is to continue the ameen directed to be deputed by paragraph 57 to collect the rents and revenues of the estate of the defaulter, in the same manner as if the process issued under paragraph 54 had been duly served and obeyed by him.—Reg. XIV., 1793, sec. xv.

61. If the defaulter shall not surrender himself before the expiration of the period limited in the publication directed to be made in paragraph 60, or if he shall deliver himself up within the prescribed time, and after receiving his answer to the charge, and hearing the evidence which he may produce in his defence and that which the collector may adduce in support of his representation, if it shall be proved to the satisfaction of the Court that the defaulter is guilty of the charge, the Court is to decree the proprietary right of the defaulter and his heirs in the estate on account of which the arrears may be due forfeited to Government. If the defaulter shall not appeal from the decree to the Sudder Dewanny Adawlut within the time limited for referring appeals to that Court, the Court is immediately to transmit to the Governor-General in Council a copy of the decree, and of all the proceedings respecting the charge. If an appeal shall be received from the decision of the Zillah Court, and the Sudder Dewanny Adawlut should confirm the decree, they are immediately to transmit a copy of their decree and proceedings, and of the decree and proceedings received from the Zillah Court, to the Governor-General in Council. If the judge of the Zillah Court shall decree the charge not proved, he is nevertheless to detain the defaulter in confinement, in the same manner as if the process prescribed in paragraph 54 had been duly served upon him and he had obeyed it; and the collector is immediately to obtain from the Court a copy of the decree and proceedings, and transmit them, with a letter containing his objections to the decision, to the Board of Revenue, who are to order the collector to appeal from it, or not, as may appear to them proper. If the board shall order an appeal to be preferred, and it shall be lodged within the limited time, and the appeal shall be received in the Sudder Dewanny Adawlut, and the Court should reverse the decision of the Zillah Court, and declare the proprietary right in the estate forfeited, the Court is immediately to transmit a copy of their decree and proceedings, and of the decrees and proceedings received from the Zillah Court, to the Governor-General in Council. That no doubt may be entertained from what decrees passed by the Zillah Court under this paragraph an appeal is to be allowed to the Sudder Dewanny Adawlut, it is declared that an appeal shall not lie to the last-mentioned Court, unless the annual produce of the estate of the defaulter on account of which the arrears may have been demanded, calculating according to the amount paid or payable by the dependent talookdars, under-farmers, and ryots, to the defaulter, on account of the year in which the decision of the Zillah Court may be passed, shall exceed *five thousand* rupees; and the collectors are enjoined to insert generally in the representation which they are directed to make to the Dewanny Adawlut of the zillah in the preceding paragraph, whether the

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produce of the estate on account of the year above mentioned, according to the best information they may have been able to obtain, exceeds or falls short of five thousand rupees, but without specifying the actual amount of the produce. If the defaulter shall not deliver himself up within the prescribed time, or if he shall surrender himself by the limited period and the collector shall have stated the produce of the estate to be under five thousand rupees and the defaulter shall not deny the truth of the collector's statement in his answer to the charge, an appeal shall not lie from the decision of that Court to the Sudder Dewanny Adawlut. If the collector shall represent that the produce of the estate for the year before mentioned exceeds or falls short of five thousand rupees, and the defaulter should appear within the limited time, and in his answer to the charge object to the statement, the judge is to try the objections, and pass such decision upon them as may appear to him equitable. If an appeal from the decree of the Zillah Court should be presented to the Sudder Dewanny Adawlut, and the admission or rejection of the appeal should depend upon the produce of the estate for the year before mentioned, exceeding or falling short of five thousand rupees, the Court of Sudder Dewanny Adawlut is to examine the decisions passed by the Dewanny Adawlut of the zillah respecting the produce of the estate, and either adjudge the cause to be appealable or not, as may appear to them equitable. Decrees that may be passed under this paragraph by the Dewanny Adawlut of any zillah, or the Sudder Dewanny Adawlut, adjudging the proprietary right in the estate of a defaulter to be forfeited to Government, shall not be carried into execution in any case whatever, without an order from the Governor-General in Council confirming the decree, and directing in what manner the proprietary right in the estate shall be disposed of. It shall be at the option of the Governor-General in Council, within four weeks after the receipt of a decree adjudging the proprietary right of any defaulter in an estate forfeited, either to order the decree to be executed, or to commute the forfeiture for such fine as, upon a consideration of the situation and circumstances in life of the defaulter, he may think adequate to the offence for which the decree may be passed. In the event of the Governor-General in Council commuting the forfeiture for a fine, the Court which shall have transmitted the decree and proceedings to the Governor-General in Council, upon receiving notice of the fine that he may impose, are to levy the amount of it by the same process by which they are directed to enforce decrees of the Court, and to pay the amount to the collector of the zillah. But if the Governor-General in Council shall not, within four weeks after the decree shall have been received by him, either order it to be executed or commute the forfeiture for a fine, the decree is to stand good against the defaulter. The process which a collector may institute against a defaulter in the Court of Dewanny Adawlut of the zillah under this paragraph, as well as the prosecution or defence of any appeal from the decision of such Court which may be preferred to the Sudder Dewanny Adawlut in which the collector may be appellant or respondent, is to be carried on at the public expense, and to be conducted by the vakeel of Government, whom the collector is to furnish with the necessary instructions.—Reg. XIV., 1793, sec. xvi.

62. If the defaulter mentioned in the preceding paragraphs shall be allowed to retain the proprietary right in his estate, Government is to account to him for the amount received through the ameen; and if it shall exceed the public revenue that was due from the estate, the expenses attending the deputation of the ameen and the fine which may be imposed upon the defaulter, the overplus is to be returned to him. If the sum received through the ameen shall be inadequate to the payment of the several demands above mentioned, and the defaulter shall not make good the deficiency, a portion of his lands is to be sold for the discharge of it.—Reg. XIV., 1793, sec. xvii.

63. If the decree adjudging the proprietary right in the estate of the defaulter forfeited shall be confirmed under paragraph 61, it shall be at the option of the Governor-General in Council, either to confer such right upon the heirs of the defaulter, on their agreeing to make good all sums whatever that may be due to Government from the defaulter on account of the estate, and to pay the fixed revenue assessed upon it, or to dispose of it at public sale subject to the payment of such revenue. If the estate shall be conferred upon the heirs of the defaulter, he is to be immediately released if he should be in confinement. If the estate shall be disposed of at public sale, the proceeds of the sale are to be appropriated towards the discharge of the demands of Government, either on account of the public revenue, the expense of attending the deputation of the ameen, or other charges incurred in consequence of the default of the former proprietor. If no such demand shall be outstanding at the time of the sale, or if any such demand should be due and the proceeds shall exceed the amount of it, the whole of the proceeds in the first-mentioned case, and the overplus in the second, is to be carried to the public account, or applied in any other manner that the Governor-General in Council may direct.—Reg. XIV., 1793, sec. xviii.

64. If a collector shall issue the process prescribed in paragraph 54 against any farmer of land to convey him to gaol on account of arrears of public revenue, and the defaulter shall refuse to obey, or resist, or cause to be resisted, the peons deputed by the collector to convey him to gaol, or escape after being taken by them into custody, or abscond, or shut himself up in his own

or any house, or in any building, or retire to any place, so that the process cannot be served upon him, the collector who may issue the writing shall immediately represent the circumstances, through the vakeel of Government, to the Dewanny Adawlut of the zillah wherein the lands on account of which the arrears shall be due may be situated; and upon the peons deputed to execute the process, or any two or more credible persons, making oath or affirmation to the truth of the circumstances stated in the representation of the collector, the judge, provided he shall be satisfied in his own mind from such depositions of the witnesses, and their answers upon oath or affirmation to any questions which he may put to them, that the charge is well founded, is to require the defaulter, by a publication in writing, to deliver himself into the custody of the Court within four weeks, calculating from the day following the date of the publication. The publication is to be written in the Bengal language, if the farm of the defaulter shall be in Bengal or Orissa; or in the Hindoostanee language and Nageree character, if it be situated in Behar, and shall be fixed up, as early after the date of it as may be practicable, at his usual place of abode, if it be within the limits of the zillah, or the principal cutcherry in the farm, and in the office of the collector and the court-room of the Dewanny Adawlut. The collector is to continue the ameen directed to be deputed in paragraph 57 to collect the rents and revenues of the farm of the defaulter, in the same manner as if the process issued under paragraph 54 had been duly served and obeyed by him. If the defaulter shall not surrender himself before the expiration of the period limited in the publication, or if he shall deliver himself up within the prescribed time, and after receiving his answer to the charge, and the evidence that he may have to produce in his defence, and that which the collector may adduce in support of his representation, if it shall be proved, to the satisfaction of the Court, that the defaulter is guilty of the charge, the Court shall decree the lease of the farmer annulled from the expiration of the Bengal, Fusly, or Willaity, year (according as the farm may be situated in Bengal, Behar, or Orissa) in which the decree may be passed. If the defaulter shall not appeal to the Sudder Dewanny Adawlut within the time limited for preferring appeals, the Court is immediately to transmit to the Governor-General in Council a copy of the decree, and of all the proceedings respecting the charge. If an appeal shall be received from the decision of the Zillah Court, and the Sudder Dewanny Adawlut shall confirm the decree of the Zillah Court, they are immediately to transmit a copy of their decree and proceedings, and of the decree and proceedings received from the Zillah Court, to the Governor-General in Council. If the judge of the Zillah Court shall decree the charge not proved, he is nevertheless to detain the defaulter in confinement, in the same manner as if the process in paragraph 54 had been duly served upon him and he had obeyed it, and the collector is immediately to obtain from the Court a copy of the decree and proceedings, and transmit them, with a letter containing his objections to the decision, to the Board of Revenue, who are to order the collector to appeal from it or not, as may appear to them proper. If the Board shall order an appeal to be preferred, and it shall be lodged within the time limited, and the appeal shall be received in the Sudder Dewanny Adawlut, and that Court should reverse the decision of the Zillah Court and adjudge the lease annulled, the Court are immediately to transmit a copy of their decree and proceedings, and of the decrees and proceedings received from the Zillah Court, to the Governor-General in Council. That no doubt may be entertained from what decrees passed by the Zillah Courts under this paragraph an appeal shall be admitted to the Sudder Dewanny Adawlut, it is declared, that an appeal shall not lie to the last-mentioned Court, unless the jumma paid or payable to Government by the defaulter, on account of the year in which the decree of the Zillah Court may be passed, shall exceed five thousand rupees; and the collector is enjoined to state generally, in the representation which he is above directed to make to the Zillah Court, whether the jumma paid or payable by the defaulter in such year exceed or is less than five thousand rupees, but without specifying the exact amount of it; and the rules prescribed in paragraph 61 regarding objections that may be offered to the statement of the produce of the estates of contumacious proprietors, which the collectors are therein directed to present to the Zillah Court, are to be held applicable to the statement of the jumma payable by defaulting farmers, required to be submitted by the collectors in this paragraph. Decrees that may be passed under this paragraph by the Dewanny Adawlut of any zillah, or the Sudder Dewanny Adawlut, adjudging the lease of a farmer annulled, shall not be carried into execution, in any case whatever, without an order from the Governor-General in Council confirming the decree. It shall be at the option of the Governor-General in Council, within four weeks after the decree may be received by him, either to order the decree to be executed, or to commute the forfeiture of the lease for such fine as, upon a consideration of the situation and circumstances in life of the defaulter, he may think adequate to the offence for which the decree may be passed; or if the defaulter shall not be desirous of being continued in his farm, to fine him as above prescribed, and compel him to retain the farm during the remainder of the lease, and to hold him and his surety responsible for the discharge of their engagements until the term of them shall expire. If a fine shall be imposed on the defaulter, the Court which shall have transmitted the final decree and proceedings to the Governor-General in Council, upon receiving notice of the fine, is to levy the

amount of it by the same process by which they are directed to enforce decrees of the Court, and to pay the amount to the collector of the zillah. But if the Governor-General in Council shall not, within four weeks after the decree shall have been received by him, either order it to be executed or commute the annulling of the lease for a fine, the decree shall stand good against the defaulter. The process which a collector may institute in the Dewanny Adawlut of the zillah under this paragraph, as well as any appeal that may be preferred from the decision of the Zillah Court to the Sudder Dewanny Adawlut in which the collector may be appellant or respondent, are to be defended or carried on at the public expense and by the vakeel of Government, whom the collector is to furnish with the necessary instructions.—Reg. XIV., 1793, sec. xix.

65. If the lease of the defaulter mentioned in the preceding rule shall be annulled, he shall receive credit for the collections of the ameen, after deducting the charges incurred by his deputation which may be admitted; and if any balance shall then remain due from him to Government at the close of the year in which the lease may be cancelled, both he and his surety are to be held responsible for the payment of it, and the collector is to serve the surety with the written demand prescribed in paragraph 40 for the amount; and in the event of it not being discharged by the time limited in the writing, the collector is to proceed against the surety, and the defaulter also, if he shall be forthcoming and should not have been previously confined, in the manner in which he is directed to proceed in paragraph 54, against defaulters who have not discharged a third part of the instalment of any one month by the fifteenth of the ensuing month. If there shall be a surplus after discharging all the demands above mentioned, it is to be paid to the defaulter. The defaulter shall be at liberty to prosecute in the Zillah Court the dependent talookdars, under-farmers, and ryots in the lands included in the farm, for any arrears of rent or revenue that may be due from them to him, on account of the period during which his lease remained in force.—Reg. XIV., 1793, sec. xx.

66. If a collector shall issue the process prescribed in paragraph 54 against the surety of any proprietor or farmer of land to convey him to gaol, and such defaulting surety shall refuse to obey, or resist, or cause to be resisted, the peons deputed by the collector to convey him to gaol, or escape after being taken by them into custody, or abscond, or shut himself up in his own or any house or in any building, or retire to any place, so that the process cannot be served upon him, the collector who may issue the process is immediately to represent the circumstances, through the vakeel of Government, to the Dewanny Adawlut of the zillah wherein the lands on account of which the arrears shall be due may be situated; and upon the peons deputed to execute the process, or any two or more credible persons, making oath or affirmation to the truth of the circumstances stated in the representation of the collector, the judge, provided he shall be satisfied in his own mind from such depositions of the witnesses, and their answers upon oath or affirmation to any questions which he may put to them, that the charge is well founded, is to require the defaulter, by a publication in writing, to deliver himself into the custody of the Court within four weeks, calculating from the day following the date of the publication. The publication is to be written in the Bengal language, if the estate or farm, on account of which the money may be due from the defaulter shall be in Bengal or Orissa, or in the Hindostanee language and Nageree character, if it be situated in Behar, and shall be fixed up, as early after the date of it as may be practicable, at his usual place of abode, if it be within the limits of the zillah, and in the principal cutcherry in the estate or farm, the office of the collector, and the court-room of the Dewanny Adawlut. If the defaulter shall not surrender himself before the expiration of the period limited in the publication, or if he shall deliver himself up within the prescribed time, and after receiving his answer to the charge, and the evidence that he may have to produce in his defence, and that which the collector may adduce in support of his representation, if it shall be proved to the satisfaction of the Court that the defaulter is guilty of the charge, the Court shall adjudge him to pay a fine according to the nature of the offence, and his situation and circumstances in life. If the defaulter shall not appeal to the Sudder Dewanny Adawlut within the time limited for preferring appeals to that Court, the Court is immediately to transmit to the Governor-General in Council a copy of the decree and of all the proceedings respecting the charge. If an appeal shall be received from the decision of the Zillah Court, and the Sudder Dewanny Adawlut shall confirm the decree of the Zillah Court, they are immediately to transmit a copy of their decree and proceedings, and of the decree and proceedings received from the Zillah Court, to the Governor-General in Council. If the judge of the Zillah Court shall decree the charge not proved, he is nevertheless to detain the defaulter in confinement, in the same manner as if the process prescribed in paragraph 54 had been duly served upon him and he had obeyed it; and the collector is immediately to obtain from the Court a copy of the decree and proceedings, and transmit them, with a letter containing his objections to the decision, to the Board of Revenue, who are to order the collector to appeal from it, or not, as may appear to them proper. If that Board should order an appeal to be preferred, and it shall be lodged within the limited time, and the appeal shall be received in the Sudder Dewanny Adawlut, and that Court should reverse the decision of the Zillah Court, and adjudge

the defaulter to pay a fine, the Court is immediately to transmit a copy of its decree and proceeding, and of the decree and proceedings received from the Zillah Court, to the Governor-General in Council. And that no doubt may be entertained from what decrees passed by the Zillah Courts, under this paragraph, an appeal shall lie to the Sudder Dewanny Adawlut, it is declared, that an appeal shall not lie to the last-mentioned Court, unless the fine adjudged to be paid by the defaulter shall exceed five thousand rupees. Decrees that may be passed under this paragraph by the Dewanny Adawlut of any zillah or by the Sudder Dewanny Adawlut, adjudging a fine to be paid by a surety, are not to be carried into execution, in any case whatever, without an order from the Governor-General in Council confirming the decree. It shall be at the option of the Governor-General in Council, within four weeks after the decree may be received by him, either to order the decree to be executed or to alleviate the fine. The Court which shall have transmitted the final decree and proceedings to the Governor-General in Council, upon receiving notice of the fine that may be imposed upon the defaulter, is to levy the amount of it by the same process by which it is directed to enforce decrees of the Court, and to pay the amount to the collector of the zillah. But if the Governor-General in Council shall not, within four weeks after the decree shall have been received by him, either order it to be executed or alleviate the fine, the decree shall stand good against the defaulter; and the Court which shall have transmitted the final decree and proceedings to the Governor-General in Council, upon receiving directions for that purpose, is to levy the amount of the fine in the manner above prescribed. The process which the collector may institute in the Dewanny Adawlut of the zillah under this paragraph, as well as the appeals that may be preferred from the Zillah Court to the Sudder Dewanny Adawlut, in which the collector may be appellant or respondent, are to be defended or carried on by the vakeel of Government and at the public expense.—Reg. XIV., 1793, sec. xxi.

### SURETIES.

67. When a collector shall proceed to confine the surety of any proprietor or farmer of land, he is immediately to cause such portion of the defaulter's lands as he may estimate to be sufficient to make good the amount of the demand, in the event of their being sold, to be *attached, under the rules prescribed in paragraph 57, for the attachment of the lands of defaulting proprietors. If the surety shall not possess any landed property in his zillah, the collector is to depute an ameen into the zillah in which the defaulter may have landed property, with a letter stating the amount of the demand on him and the property to be attached. The collector of such zillah is immediately to order a peon to point out the property to the ameen, who is to keep it in attachment until the Board of Revenue shall sanction the sale of it. The ameen is to apply the amount of the collections from the lands, after deducting the expenses of his establishment, towards the discharge of the public revenue, which he is to pay to the collector of the zillah in which the lands may be situated. If any surplus shall remain after making good the public dues, it is to be appropriated towards the discharge of the demand on account of which the attachment of the lands may have been made. If the property of the surety that may be attached shall be too inconsiderable to admit of its being charged with the expense of an ameen, the collector to whom the money due from the surety may be payable is to apply to the collector of the zillah in which the lands may be situated to order the nearest tehseeldar or native officer employed under him in the business of the collections to take charge of the lands, and the collector to whom the application shall be made is to comply with it, and the tehseeldar or native officer to whose charge he may commit the lands is to perform the duties prescribed to the ameen in paragraph 57, and under the same restrictions and penalties. The collector of the zillah in which the lands may be situated is not to be liable to any prosecution on account of the attachment; but the collector in conformity to whose application the attachment may take place is to be responsible for the consequences, in the same manner as if the lands had been situated in his own zillah.*—Reg. XIV., 1793, sec. xxiv.

### SUITS AGAINST COLLECTORS.

68. That proprietors and farmers of land may be enabled to recover sums that may be exacted from them by the collector, on the part of Government, above what they may be bound to pay by their engagements; and that they may be indemnified from all loss they may sustain by such exactions, it is declared, that if a collector shall demand a sum of money from a proprietor or farmer of land on account of arrears, and the proprietor or farmer shall deny, by a writing to that effect addressed to the collector, the justness of the whole or a part of the demand, but to prevent any further process being issued against him shall discharge the whole of the demand, the proprietor or farmer shall be at liberty to sue the collector in the Dewanny Adawlut of the zillah for

the recovery of the sum which he may consider to have been unjustly taken from him, and the Court shall give judgment in favour of the complainant for all such sums as may be proved to have been unduly exacted from him, and the amount of such judgment shall be refunded to him from the public treasury of the zillah, with interest at the rate of twelve per cent. per annum, from the date of the exaction to the date of the decree. All the rules respecting suits instituted against a collector for sums actually received by him, on the part of Government, from any proprietor or farmer of land, or from the surety of any farmer, are to be considered applicable to suits that may be instituted against a collector under this paragraph.—Reg. III., 1794, sec. xii.

69. Any person confined for arrears of revenue, or other demands of Government under this Regulation, is to be at liberty to apply to the judge of the Court of Dewanny Adawlut of the zillah, by the collector of which he may have been confined, to require such collector to show cause why he is continued in confinement. If the prisoner shall dispute the justness of the demand, the judge is not to inquire into the merits of the case, but is to leave the prisoner to prosecute the collector under paragraph 59, which is hereby extended to demands on sureties and purchasers of land, as far as it can be applied to them. If, however, the prisoner shall admit the justness of the demand for which he was confined, as well as any other claims that may be made upon him, for sums stated to have become due from him subsequent to his confinement, and shall assert that the whole of such sums have been discharged by him, the judge is to proceed to inquire whether the prisoner has actually paid such sums or not. Upon examination of the prisoner's accounts of his payments (which examination is to be considered as a continuation of the original suit or process, and not as a new suit or process), if it shall appear to the judge that the demands for which he may be in confinement have been liquidated, he is to release him, upon his giving security to make good any sum which the collector may state to be still due from him, in the event of the cause being appealed, and the sum being awarded in favour of Government. If the collector shall not object to the adjustment of accounts made by the Court, or if he shall object to them, and the person confined shall omit to give the security above required, and the collector shall not appeal within the time limited for preferring appeals, the judge is to release the prisoner without taking any security. If it shall be found that the whole, or a part of the sum for which such person may be in confinement, remains undischarged, and he shall acquiesce in the adjustment of accounts made by the Court, and shall have been confined on account of such demand for a term exceeding one year, the judge is empowered to release him, upon his giving good security to pay the sum remaining due from him, by instalments, during the course of one year after his release. The collector and the prisoner are to be allowed to appeal from the decision which may be passed by the Court under this paragraph, in the event of either of them being dissatisfied with it, under the rules regarding appeals prescribed in Regulations V. and VI., 1793. The rules prescribed to collectors in the following paragraph regarding the decisions therein specified, are to be considered applicable to all decisions passed under this paragraph.—Reg. XIV., 1793, sec. xxix.

70. Upon a decision being passed in the Dewanny Adawlut of any zillah by which the whole, or any part of a sum of money that may have been demanded, or actually received by a collector, as an arrear of revenue, from any proprietor or farmer of land, shall be adjudged not to be due, the collector is to apply immediately to the Court, through his vakeel, for a copy of the proceedings and decree. The Court is to order copies of the proceedings and decree to be delivered to the collector with all practicable despatch. The collector is to forward the papers, without delay, to the Board of Revenue, with a letter stating his objections to the decree. If the Board shall be of opinion that the decision is not well founded, they are to authorize the collector to appeal the cause to the Sudder Dewanny Adawlut. If the Board of Revenue are satisfied with the decision of the Dewanny Adawlut, they are to direct the collector not to prefer an appeal to the Sudder Dewanny Adawlut. In all cases in which the Board of Revenue may order the collector to prefer an appeal to the Sudder Dewanny Adawlut, the collector is to be indemnified by Government for all costs and damages that may have been awarded against him by the Zillah Court. On the other hand, if the Board of Revenue shall deem the decision of the Zillah Court equitable, and not direct an appeal, the collector is to defray all the costs and damages that may have been awarded against him in that Court. The collector is nevertheless to be at liberty to appeal the cause, but at the risk of paying all costs and damages that may be adjudged against him in appeal, in the event of his being ultimately cast. Appeals in which the collectors may be engaged in the Sudder Dewanny Adawlut in consequence of orders from the Board of Revenue, are to be carried on by the vakeel of Government and at the public expense.—Reg. XIV., 1793, sec. xxx.

71. If a collector shall be prosecuted under paragraphs 59 or 69, and the prosecutor shall be cast, or be dissatisfied with the decision of the judge of the Dewanny Adawlut of the zillah, and appeal to the Sudder Dewanny Adawlut, and an appeal should be admitted, it shall be carried on at the public expense, and be conducted by the vakeel of Government, who is to be furnished with the necessary instructions for that purpose by the collector.—Reg. XIV., 1793, sec. xxxi.

72. In every case in which a collector may be prosecuted in the Dewanny Adawlut of the zillah under these rules, for sums demanded or received by him on behalf of Government from any proprietor or farmer of land, or from any surety, or from any purchaser of land; or for any sums demanded or received, or taken by him, directly or indirectly, for his own use, from any of the above-mentioned descriptions of persons, over and above what he may be entitled to demand on behalf of the public, or for any acts done in his official capacity that may be repugnant to this Regulation, or which may not be warranted by it, and in appeals that he may have preferred without the orders of the Board of Revenue, he is to appoint any of the authorized vakeels of the Court before which the suit may be brought to plead the cause.—Reg. XIV., 1793, sec. xxxii.

73. In prosecutions that may be instituted in the Dewanny Adawlut of any zillah against the collector of the zillah, for sums of money demanded, or directly or indirectly received or taken by him for his own use, from any proprietor or farmer of land, or any surety, or any purchaser of land; or for any acts done in his official capacity that may be repugnant to this Regulation, or which may not be warranted by it, and that shall not involve any claims to sums received or demanded by him on behalf of Government, in conformity to this Regulation (which claims are to be made the subject of distinct suits, and are to be tried in the manner and under the rules prescribed in this Regulation), the collector is not to forward the proceedings and decree to the Board of Revenue. The suit is to be considered entirely as a dispute of a private nature between the collector and the prosecutor, and the collector is to defend it at his own risk and expense, in the same manner as individuals amenable to the Courts, and not employed by Government, are required to defend suits instituted against them.—Reg. XIV., 1793, sec. xxxiii.

74. The collectors are not to derive any pecuniary advantage whatever from suits that they may institute, or which may be preferred against them in any of the courts of justice in their official capacity; with the exception of suits in which they may be engaged under paragraph 73, the sums awarded to them in which they are to apply to their own use. On the other hand, it is not intended that the collectors should sustain any loss in levying the dues of Government, in cases in which their conduct may be adjudged by a final judicial decree to be conformable to this Regulation. The collectors are accordingly to bring to the credit of Government, in their monthly accounts, all sums whatever (with the exception above specified) that may be adjudged to them as costs or damages by any of the Courts of civil justice; and they are to insert at the foot of their monthly accounts, or in a separate account, or in their monthly accounts under a distinct head, according as the Board of Revenue may deem advisable, all sums which they may disburse, in conformity to this Regulation, on account of process or suits directed to be carried on by the vakeel of Government, the costs and damages in which are expressly directed to be defrayed by the public, or in suits the costs and damages in which may be ultimately defrayable by Government, but for which the collectors are directed to be held responsible in the first instance. But they are, in no case, to charge these disbursements in their accounts, without previously obtaining the special sanction of the Board of Revenue for that purpose. Until such sanction is procured, the collectors are to be held answerable for the disbursements.—Reg. XIV., 1793, sec. xxxiv.

75. If a collector shall have been compelled to pay costs or damages in any suit under this Regulation, and upon his stating the case to the Board of Revenue it shall appear to them, upon a consideration of the circumstances of it, that he ought not to be made responsible for the amount, the Board are to transmit the case to the Governor-General in Council, who will determine whether the collector shall be made responsible for such costs or damages or not.—Reg. XIV., 1793, sec. xxxv.

76. Security is not to be demanded from the collectors for their personal appearance, in any suit in which they may be engaged under this Regulation; nor shall any security be required from them for the payment of costs, or for the performance of the decrees or orders of the Court, in suits which are directed by this Regulation to be carried on by the vakeel of Government and at the public expense. In suits for sums demanded or received by the collector on behalf of Government, for the costs and damages in which he is declared eventually responsible, the Courts are to require the same security from the collector for the payment of the costs and damages, as would be taken in similar cases from individual suitors; but they are not to require any security from him for the performance of their decrees respecting the sums which may constitute the subject of the suits, as Government will be answerable for the due performance of them. In the suits described in paragraph 73 which may be instituted against the collector, he is to give the same security for the payment of the costs, and the performance of the decrees and orders of the Courts, as would be required from individual suitors in similar cases. If a collector shall refuse or omit to pay, within the limited period, any sum of money that may be ordered to be levied from him, either on account of the suits described in paragraph 73 or as costs or damages in any other suits, for the expenses incurred in which he is declared eventually responsible, the Court is to levy the amount from his surety by the customary process. If the Court shall not be able to obtain payment from his surety, the judge is to report the circumstances to the Governor-General in

Council, who will order the amount to be paid from the public treasury, and deduct it from the allowances which may be receivable by the collector from Government. In all other cases, if a collector shall omit or refuse to obey any order or decree of a Court of judicature, the Court from which the process shall have issued is to fine him according to the nature of the offence. In the event of the collector refusing or omitting to pay the fine, the Court is to report the circumstances to the Governor-General in Council, who, provided he shall approve of the fine, will order the amount to be stopped from the allowances which may be receivable by such collector from Government.—Reg. XIV., 1793, sec. xxxvi.

77. The Board of Revenue are to issue such instructions as they may think advisable to the collectors, regarding the mode of inserting in their monthly accounts the sums which may be paid to them as costs and damages, in consequence of the orders or decrees of any of the Courts of civil judicature, or noting at the foot of their accounts, or charging under a separate head in their monthly accounts, the sums which they may disburse as costs or damages which are expressly directed to be defrayed by Government, whatever may be the final decision in the cause, or that may be ultimately defrayable by Government, although in the first instance the collectors are to be held responsible for them; and to require such vouchers as they may deem necessary for such receipts and disbursements, as well as for the sums which the Courts may adjudge to be repaid from the public treasury, or not to be due to the public.—Reg. XIV., 1793, sec. xxxvii.

78. When any process or order shall be issued by any of the Courts of civil judicature to the collector of a zillah, in suits instituted under this Regulation, the judge or register of the Court immediately serving the process or order is to transmit it under a cover sealed in the form of a letter, and superscribed with his name and official appellation, and addressed to the collector. The collector is to acknowledge the receipt of the process or order, on the day on which he may receive it, by a letter addressed to the judge or register of the Court by which it may have been served.—Reg. XIV., 1793, sec. xxxviii.

79. To facilitate the communication between the collectors and the vakeels in the Sudder Dewanny Adawlut, who may be entrusted with the conduct of any appeals (including appeals from decisions in the suits described in paragraph 73), in which they may be engaged under this Regulation, either whilst they may continue in the office of collector of the zillah in which such suits may have arisen, or after their removal from the office, the collectors are permitted to forward, free of postage, any instructions which they may have to transmit to the vakeels of the court. The instructions are to be enclosed under a cover, sealed and directed to the vakeel. The instructions, so sealed and directed, are to be transmitted, under a sealed cover, addressed to the register of the Court in which the cause may be depending, and superscribed with the name and official appellation of the person despatching it. The register of the Court, immediately upon receiving the instructions, is to deliver them sealed to the vakeel to whom they may be directed. Any person who may be removed from the office of collector of a zillah, and may have suits depending in the Dewanny Adawlut of such zillah after his removal from the office, is likewise empowered to forward instructions to his vakeel through the Court. In like manner the vakeels in any of the courts to whom the pleading of suits may be committed under this Regulation by persons holding the office of collector, or after they have been removed from the office, are authorized to forward any papers which they may have to convey to their employers by the public dawk, free of postage. The papers are to be enclosed in a cover, sealed with the seal of the vakeel, and the judge or register of the Court is to transmit the papers, so sealed, in a cover addressed to the person to whom they are to be forwarded, and superscribe the cover with his official signature.—Reg. XIV., 1793, sec. xxxix.

80. No collector is to be liable to prosecution for any official acts of his predecessor; but persons who may be removed from the office of collector of the revenue of a zillah are to carry on, in the same manner as if they had continued in the office, all suits of the nature of those described in paragraph 73, in which they may be engaged; and all suits preferred against them in the zillah courts for sums that they may have demanded or received on behalf of Government, and for the costs and damages in which they are declared eventually answerable, as well as all suits, being appeals from decisions in suits of the last-mentioned description, excepting such of those appeals as they may have preferred, or in which they may have become a party, in consequence of orders from the Board of Revenue.—Reg. XIV., 1793, sec. xli.

81. If the collector of a zillah shall die or be removed from his office, his successor is to carry on all unfinished process or suits in the Court of Dewanny Adawlut of such zillah, directed by this Regulation to be conducted by the vakeel of Government and at the public expense; and all appeals from the decrees of the Zillah Court in such cases, as also all appeals from the decrees of the Zillah Court, in which the former collector may have been engaged, in consequence of orders from the Board of Revenue, and which are ordered to be pleaded by the vakeel of Government and at the public expense.—Reg. XIV., 1793, sec. xlii.

82. In cases in which the Board of Revenue may judge it expedient, or in which they may

receive orders for the purpose from the Governor-General in Council, they are to take upon themselves the superintendence of the prosecution or defence of any appeal in the Sudder Dewanny Adawlut which a collector may prefer or be engaged in, pursuant to their orders, instead of leaving the superintendence of the appeal to him.—Reg. XIV., 1793, sec. xliii.

83. If any proprietor or farmer of land, against whom the collector may issue the process specified in paragraph 54, shall be or reside in either of the cities of Patna or Moorshedabad, the collector is to order the two peons whom he may charge with the writing for the apprehension of the defaulter, to proceed to the judge of such city, who is to order a peon to accompany them, to point out the place of residence of the defaulter. The two peons are to take the defaulter into custody, and convey him to the gaol of the Dewanny Adawlut of the city in which they may so apprehend him. The remainder of paragraph 54 with regard to cases in which defaulters shall not reside or be within the limits of the zillah, wherein the lands on account of which the arrears may be due shall be situated, is to be considered equally applicable as if the defaulter had been apprehended in any zillah instead of in such city. If any defaulter of either of the descriptions before mentioned in this paragraph shall be or reside within the limits of the town of Calcutta, the collector is to forward the written demand for the amount claimed from the defaulter to the Board of Revenue, who are to submit it to the Governor-General in Council. Upon the receipt of the writing, the Governor-General in Council will either order the defaulter to be apprehended and conveyed to the gaol of the Dewanny Adawlut of the zillah, from the collector of which the written demand may have issued, or adopt such other measures as may appear to him proper. If the Governor-General in Council shall cause the defaulter to be apprehended and conveyed to the gaol of the Dewanny Adawlut of the zillah above mentioned, he is thenceforward to be considered exactly in the same predicament as if he had been apprehended within the limits of such zillah, and conveyed to gaol by the collector of it under paragraph 54.—Regulation XIV., 1793, sec. xlv.

84. If a proprietor or farmer of land, or a surety or a purchaser of land, shall deem himself aggrieved by any act which may be done by a collector, in conformity to special orders from the Governor-General in Council or the Board of Revenue; or if a collector shall demand a sum of money, on behalf of Government, from any of the above-mentioned descriptions of persons, and the stated defaulter shall admit the demand to be conformable to the engagements or stipulations under which the collector may make the demand, but deny their validity, or have any objections to make to them, either wholly or in part, under any Regulations passed by the Governor-General in Council, the collector is not to be liable to any prosecution on account of such act, or the demands that he may make conformably to such engagements or stipulations, which are to be held valid, until they are set aside or altered by a final judicial decision; and the proprietor or farmer of land, or surety or purchaser of land, is to discharge the demands that may be made upon him by the collector under such engagements or stipulations, until the decision shall be passed. In the cases above specified, Government is to be considered as a party in the cause with its subjects, and the proprietor or farmer of land, or the surety or purchaser, is to present a petition to the judge of the Dewanny Adawlut of the zillah in which the cause may be cognizable, stating his objections to the act, or to the engagements or stipulations, and praying that the Governor-General in Council will order the Dewanny Adawlut of the zillah to try the points or matters contested under the Regulations. The judge to whom the petition may be presented is to forward it immediately to the Governor-General in Council, who, provided he shall not think it proper to afford the redress that may be solicited by the petitioner, and the Courts of justice shall be competent to try the cause, will direct the Court in which it may be cognizable to proceed to the trial of it. If the Governor-General in Council shall order the cause to be tried, the judge of the Court is to send a written notification of the order to the complainant, and the cause is to be considered as filed in the Court from the date of the notification. The Court is then to proceed to try the suit, under the same rules and regulations as are prescribed for the trial of suits between individuals. The collector of the zillah is to carry on, under the orders of the Board of Revenue, all suits that may be instituted against Government in conformity to this paragraph, and to issue the necessary instructions to the vakeel of Government in the Zillah Court, and in the Sudder Dewanny Adawlut, should the cause be appealed. In the event of Government being cast in the Zillah Court, the collector is to send copies of the decree and proceedings of the Court (which are to be delivered by the Court to the collector as soon as may be practicable upon his applying for them), with a letter stating his objections to the decision, to the Board of Revenue, who are to submit them, with their opinion on the case, to the Governor-General in Council, who will order an appeal to be preferred from the decision, or not, as he may deem advisable. All costs and damages that may be awarded against Government in suits instituted under this paragraph are to be defrayed from the public treasury.—Reg. XIV., 1793, sec. xlvi.

85. The rules respecting collectors are to be considered equally applicable to the assistants of collectors, or other persons who may be appointed by the Governor-General in Council to officiate

as collector of any zillah during the temporary absence of the collector, or whilst the office may be vacant.—Reg. XIV., 1793, sec. xlvii.

LIMITATIONS.

86. No part of these rules is to be construed to authorize the confinement of the persons, or the sale of the lands of disqualified proprietors, whose estates may be intrusted to a manager under Regulation X., 1793, for arrears of public revenue incurred whilst their respective estates were under the charge of managers, in conformity to the rules contained in that Regulation. Nor to empower the collectors to take a female proprietor of land into custody, or order any such proprietor to attend them in person, under any pretext whatever. Nor to take into custody any proprietor of land with whom a settlement has been or may be concluded, or any farmer of land or his surety, except in the cases in which they are expressly authorized to issue process against their persons. Arrears of revenue that may become due from female proprietors of entire estates, who may be exempted from the operation of Regulation X., 1793, and acknowledged as the ostensible managers of their own lands, and from proprietors of joint undivided estates committed to the charge of a manager, are to be recovered by the sale of their lands, or any other property which they may possess.—Reg. XIV., 1793, sec. xlviii.

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## RULES IN FORCE IN BENARES AND IN THE CEDED AND CONQUERED PROVINCES (NORTH-WESTERN PROVINCES).

NOTE.—The rules for Benares and the Ceded and Conquered Provinces are generally concordant, as the references at the end of each paragraph will show; where, however, there are differences, the corresponding rules are printed in succession with each other, with a heading denoting the provinces in which they are respectively in force.

### *Ceded and Conquered Provinces.*

87. Tehseeldars, or native collectors, shall be appointed to collect the public dues from those lands, for the payment of the revenue from which settlements may not have been concluded with the zemindars or other actual proprietors; and generally, to collect the revenues of such lands as the collectors may deem it expedient to place under them.—Reg. XXVII., 1803, sec. ii., cl. 1.

88. The tehseeldars shall be selected by the collectors, who are required to pay the utmost attention to their character and responsibility. The name of the person proposed for that office shall be submitted by the collector to the Board of Revenue, and no actual appointment shall take place without the previous sanction of that board.—Reg. XXVII., 1803, sec. ii., cl. 2.

89. In all practicable cases, the amount of the revenue to be collected by each tehseeldar shall not be less than two lacks of rupees, nor exceed the sum of three lacks of rupees per annum, including every description of collections intrusted to his management. Where it may be deemed expedient by a collector to intrust a tehseeldar with a collection exceeding the sum of three lacks of rupees, he shall report the same to the Board of Revenue, in order that they may submit such reference for the orders of the Governor-General in Council.—Reg. XXVII., 1803, sec. ii., cl. 3.

90. The collectors shall be careful to prevent persons holding more than one situation as tehseeldar, by obtaining these appointments in other pergunnahs or in other districts, in the names of their connections or dependents. The collectors shall also be careful that the persons appointed tehseeldars are principals, and not employed as agents for their sureties.—Reg. XXVII., 1803, sec. ii., cl. 4.

91. The tehseeldars shall give good and sufficient security (to be approved of by the Board of Revenue) for the due and faithful performance of the trust reposed in them, to the amount of the largest kist recoverable by them, respectively, in each year.—Reg. XXVII., 1803, sec. ii., cl. 7.

92. A tehseeldar falling in arrear to the amount of one whole kist, shall be liable to be removed and a report of the arrear so incurred shall be made, without delay, to the Board of Revenue.—Reg. XXVII., 1803, sec. ii., cl. 8.

93. Tehseeldars shall make the usual advances of tuccavy at the proper periods, for the purchase of seed, cattle, and implements of husbandry; taking bonds for the same, bearing interest at the rate of twelve per cent. per annum. The tuccavy bonds shall be attested by the choudries,

canongoes, and mokuddums; and the number of begahs for the cultivation of which the advance is made shall be specified in the bond.—Reg. XXVII., 1803, sec. ii., cl. 9.

94. All engagements whatever concluded immediately by the tehseeldars, shall be made and granted in the name and on the part of Government; inasmuch as the tehseeldar acts for, and is to be regarded in all cases as the officer of Government.—Reg. XXVII., 1803, sec. ii., cl. 10.

95. Where a person paying revenue to Government may be dissatisfied with the conduct of a tehseeldar, and shall prove, to the satisfaction of the collector, that the tehseeldar has been guilty of misconduct towards him, such person shall be entitled to the privilege of paying his revenue direct to the treasury of the collector; provided that the complainant shall give good and sufficient security for the regular discharge of his kists. But no separation of this nature shall take place without a previous reference to the Board of Revenue: and the collectors shall be careful that the authority and influence of the tehseeldars be not lessened on light and insufficient grounds.—Reg. XXVII., 1803, sec. ii., cl. 11.

*Benares and Ceded and Conquered Provinces.*

96. Whenever any of the present tehseeldars in the province of Benares or in the Ceded and Conquered Provinces shall die or shall resign or shall be removed from office on account of misconduct, under the powers vested in the Governor-General in Council by the general Regulations, the Governor-General in Council will fix the personal allowances which it may be proper to grant to their successors, and likewise the amount which it may be proper to allow to them for the maintenance of establishments, as receivers of the public revenue, on a consideration of the amount of the revenue to be collected by such tehseeldars, of the extent of the country comprised within the limits of their respective tehseeldaries, and of other local circumstances. It shall accordingly be the duty of the collector of the district in which any tehseeldar may die or resign, or be dismissed from office, to report to the Governor-General in Council, through the Board of Revenue, the amount of the personal salary which the collector would propose to be granted, on the principles above stated, to the new tehseeldar, and of the establishment which he would propose to be allowed for the collection of the public revenue.—Reg. XXI., 1806, sec. ii.

97. Tehseeldars appointed under these rules shall be vested with the same powers as the present tehseeldars are or may be empowered to exercise, as receivers of the public revenue, under the Regulations established in the above-mentioned provinces respectively.—Reg. XXI., 1806, sec. iii.

98. Tehseeldars shall be responsible for the jumma of the mehauls included within their respective tehseeldaries; provided however, that if any losses shall be proved, to the satisfaction of the Governor-General in Council, to have arisen from the impracticability of realizing any balances due from zemindars, farmers, or others, by the sale of their property or by other legal means; or if the Governor-General in Council shall, in any particular case, deem it just and proper to grant remissions in favour of any of the said zemindars, farmers, or others, the tehseeldars shall obtain abatements proportioned to the amount of such losses or remissions. Provided also, that the tehseeldars shall obtain abatements from the jumma specified in their engagements, in proportion to the actual losses which may be proved to the Governor-General in Council to have been sustained in lands held amauny.—Reg. XXI., 1806, sec. iv.

99. The personal salary and amount of the establishment which may be granted to the tehseeldars as receivers of the public revenue, shall be paid to them by the collectors, and shall be charged to the Revenue department.—Reg. XXI., 1806, sec. v.

NOTE.—See paragraph 39, and the note thereto appended.

100. The tehseeldars are to place shaenas, or watchmen, on the crops, at the expense of the parties to whom they may belong, and are not to allow them to be cut down or carried away, until the zemindar or farmer in the mushuckhusy lands (lands for the payment of the revenue assessed on which a settlement has been concluded), or the ryots in the lands held amauny, shall have given security for the revenue payable therefrom on account of the year. If such security shall be given before the ripening of the first crops, the tehseeldar is not to station watchmen over the crops, nor is any charge to be incurred on account of watchmen by the persons who may be responsible for the revenue due from the lands; but where such security is not tendered, watchmen are to be stationed, and an allowance, the amount of which is to be regulated by the local custom, is to be made to them, and included in the deh khurch, or village charges, of which the accounts are kept by the putwarries. To prevent all undue exactions under the head of shaenagee, or allowance to shaenas or watchmen, the tehseeldar is to furnish each watchmen with a dustuck or writ, prescribing the duty he is to perform. On this dustuck the serishtadars or canongoes are to indorse the name of the watchman, the rate of allowance which, according to established custom, he is to receive, and from whom it is to be levied; and the serishtadars or canongoes, at the end of every month, are to transmit, under their official signature, a list of all such shaena

dustucks as they shall have thus attested during the course thereof, together with the rates of shaenagee thereby allowed. The collector is to revise these allowances, and may order them to be reduced whenever they shall appear to him exorbitant.—Reg. VI., 1795, sec. ii.; Reg. XXVII., 1803, sec. ii., cl. 12.

*Benares.*

101. The tehseeldars are not to issue a dustuck, or written demand for the payment of any kist or instalment, until it be due. Accordingly, in those places where by ancient custom the revenues are payable by two instalments in each month, viz., at the amawus, or middle, and the poornmaushy, or end of the month, he is not to issue a dustuck for such kists before the expiration of the day of payment; and where the revenues are payable by monthly instalments, he is not to issue a dustuck for the instalment of any month before the elapse of it. But when any person shall have failed to pay in his kist before, or on the date on which it may become due, the tehseeldar is to issue a dustuck, and to cause it to be served on the party in arrear, who, until he shall have discharged the amount, is to pay to the peon employed in serving the dustuck, for the first three days, one anna per day, which rate shall afterwards be increased half an anna per day until the kist be paid, or until the dustuck be withdrawn, as hereafter provided for. But the defaulter shall not be subject to any further charge for the khorack, or subsistence of the peon, or other account.—Reg. VI., 1795, sec. iii.

*Ceded and Conquered Provinces.*

102. The tehseeldars are not to issue a dustuck, or written demand for the payment of any kist or instalment, until it be due. But when any person shall have failed to pay in his kist before, or on the date on which it may become due, the tehseeldar is to issue a dustuck, and to cause it to be served by a single peon on the party in arrear, who, until he shall have discharged the amount, is to pay to the peon employed in serving the dustuck two annas per day (excepting in districts where custom has fixed the subsistence of peons at a lower rate; in which case, such lower rate, and no more, shall be exacted) until the kist be paid, or until the dustuck be withdrawn, as hereafter provided for. But the defaulter shall not be subject to any further charge for the khorack, or subsistence of the peon, or on other account.—Reg. XXVII., 1803, sec. iii.

*Benares and Ceded and Conquered Provinces.*

103. Tehseeldars are strictly prohibited from employing muzcoory peons to serve the above-mentioned or any other dustucks. This duty shall be performed solely by peons entertained on monthly wages, and who shall have given security for their good conduct, and whose wages shall be paid by Government out of the tullubana or subsistence-money that may be levied from the persons on whom they may serve the dustucks.* Every tehseeldar is to report to the collector the number and names of the peons thus entertained by him, as well as such occasional dismissions, vacancies, and appointments, as may occur in this part of his establishment; and the collector is to furnish the tehseeldars with a correspondent number of chupprassies or badges which such peons are to wear, and without which they are not to perform any official act. On each of these badges shall be inscribed in the Persian language, and in the Hindostanee language and Nageree character, "Chupprassy of the tehseeldar of ———" (name of the mohaul or district under the charge of the tehseeldar in whose service the peon may be employed).—Reg. VI., 1795, sec. iv.; Reg. XXVII., 1803, sec. iv. (* NOTE.—*In the latter rule, the words,* "the tehseeldar making good the sum necessary to sustain such charge in all cases of deficiency" *are added here.*)

*Benares.*

104. Every dustuck issued by a tehseeldar for enforcing payment of a kist, shall be attested by the serishtadars officiating in the tehseeldary cutcherry, who, on the eighth of each succeeding month, are to transmit to the collector an attested list of all such dustucks as may have been thus issued; and the peons, on their return with their dustucks, shall account to the serishtadars for the tullubana collected by them in conformity to their dustucks; and after retaining one moiety of the amount for their own subsistence, shall pay the other half to the serishtadars, receiving from them regular receipts for the sums so paid. The peons are immediately to deliver these receipts into the dufter or office of the tehseeldar, who, on the twentieth of every succeeding month, is to forward an attested list of them to the collector. The collector is to cause the list to be examined and checked by the attested list of the dustucks issued, which he will have previously received from the serishtadars, and to have entered monthly in the moolky treasury accounts the neat realized amount of the reserved moiety of such tullubana, and to allow the serishtadars to apply the same

towards the discharge of so much of their monthly wages as may be payable from that treasury.—Ben. Reg. VI., 1795, sec. v.

*Ceded and Conquered Provinces.*

105. Every dustuck issued by a tehseeldar for enforcing payment of a kist shall be attested by the canongoes officiating in the tehseeldary cutcherry, who, on the eighth of each succeeding month, are to transmit to the collector an attested list of all such dustucks as may have been thus issued; and the peons, on their return with their dustucks, shall deliver in an account to the canongoes of the tullubana collected by them in conformity to their dustucks, and shall pay the amount into the treasury of the tehseeldar, receiving from the treasurer regular receipts for the sums so paid. The peons are immediately to deliver these receipts into the dufter or office of the tehseeldar, who, on the twentieth of every succeeding month, is to forward an attested list of them to the collector, carrying the surplus collections on this account to the credit of Government. The collector is to cause the list to be examined and to be checked by the attested list of the dustucks issued, which he will have previously received from the canongoes, and to have entered monthly in the treasury accounts the neat realized amount of such tullubana.—Reg. XXVII., 1803, sec. v.

*Benares and Ceded and Conquered Provinces.*

106. The tehseeldars are declared liable to be removed from their offices by the collector, with the sanction of the Board of Revenue, and to be prosecuted on the ground of their engagements, either during the course or at the end of the year.—Reg. VI., 1795, sec. vi.; Reg. XXVII., 1803, sec. vi.

107. The kists or instalments for each month receivable from the tehseeldars and the huzoory malguzars are to be paid between the first and the seventh of each succeeding month; and for all arrears not then paid, the collector, at his discretion, on a consideration of the credit and responsibility of the parties, is either to issue his dustuck, or to send only a written notice by letter, or a verbal intimation, through the vakeels of the parties (who are always to be in attendance at his cutcherry) to pay in their kists. But to those who shall not have paid the amount due from them by the fourteenth of the month, the collector shall issue dustucks, under his seal and signature, on the fifteenth of the month, and the peons serving such dustucks shall be directed to bring the party or parties to whom they are addressed, without delay, to the collector's cutcherry, and also from the date of their dustuck to levy tullubana for the first three days, at the rate of two annas per day, to be augmented at the rate of one anna per day until the kist be discharged, or until the dustuck be withdrawn, as hereafter provided for. Such dustucks, and all other summonses of the collector, are to be served by the badge peons on his establishment of public officers hired at monthly wages, who shall be allowed to retain one anna per day for their subsistence out of the tullubana which they may levy. In cases, however, of unavoidable necessity, the collector is permitted to employ muzcoory peons, who are to be allowed out of the tullubana which they may collect two annas per day for their subsistence. And on particular occasions, when from the distance of situation or the necessity for despatch, the collector shall deem it proper, instead of a peon, to employ a horseman (sowar) in the serving of any written demand for revenue, the tullubana to be collected by the horseman shall begin at the rate of four annas per day, and augment at the rate of two annas per day, until the demand specified in the dustuck be liquidated. The horseman shall be allowed to retain out of his tullubana four annas per day for his own maintenance and the subsistence of his horse; but no sowars are to be employed by the collector in the serving of dustucks, excepting those who form part of his public establishment and are entertained on monthly wages. All peons, whether employed on monthly wages or those termed muzcoory, and also sowars, are to give security, not to exact or receive, under any pretence, any sum or sums, or to accept of any subsistence for themselves or their horses, from any person or persons to whom they may be thus sent to demand payment of revenue, under the penalty of being made to refund double the amount, either by the collector, on such exaction or receipt coming to his knowledge, or in case of their being afterwards prosecuted on this account in the City Court, or either of the Zillah Courts.—Reg. VI., 1795, sec. vii.; Reg. XXVII., 1803, sec. vii. (NOTE.—*The words underlined are omitted in the latter rule.*)

108. The tullubana collected as above prescribed is to be accounted for, at the end of every month, by the collector's nazir and the jemadar of the sowars, to the treasurer of the moolky treasury, and the said nazir and jemadar are then to pay in the amount thereof, according to an attested statement under the collector's official seal and signature. This statement is to remain as a voucher in the said treasury; from the gross receipts specified in which there is only to be deducted the subsistence-money allowed to the peons or horsemen, as authorized in the preceding

paragraph.—Reg. VI., 1795, sec. viii.; Reg. XXVII., 1803, sec. viii. (NOTE.—*The latter rule substitutes* "collector's treasury" *for* "moolky treasury.")

109. With respect to the lands the revenue assessed on which is not paid huzoory, or immediately to the collector, the tehseeldar, at the expiration of the fifth day from the date of his dustucks having been served without success on the party or parties in arrear, is to cause similar written demands, under the same attestations, and subject to the same progressive rate of tullubana, to be served on their sureties, if they shall have given sureties; and when the revenue in demand, together with the tullubana, shall be realized from the principal or surety, either at their places of abode, in consequence of the dustuck being served upon them, or at the tehseeldar's cutcherry, to which the peons are to escort them, by such time (consistently with the period fixed in the ensuing paragraph for their being sent in to the collector) as shall be specified by the tehseeldar in the dustuck, such dustuck or dustucks, together with the peons serving the same, shall thereon be immediately withdrawn.—Reg. VI., 1795, sec. x.; Reg. XXVII., 1803, sec. x. (NOTE.—*The words underlined are omitted in the latter rule.*)

110. The tehseeldars are not to confine in gaol, or put into stocks or irons, any persons, whether principals or sureties, who may be in arrears on account of the revenue; but in case of any such defaulter not paying up the demand on him by the tenth day after a dustuck shall have been served on a principal, or by the fifth day after the dustuck issued on his surety, such party or parties are invariably to be sent with a written report of the circumstances to the collector. In such instances, and also in similar cases of huzoory malguzars, on whom he may have sent a dustuck or written demand and summoned in the first instance, the collector, after inquiring into the circumstances, shall within ten days after the arrival of such defaulter or defaulters at his cutcherry (during which period of ten days he may either confine their persons, or only keep over them the peons with whom they arrived), either discharge him or them, on his or their paying the amount in demand, or satisfying the collector that he or they will make good such payment before the expiration of the current Hindoo month; or otherwise the collector is to cause the party or parties in question, after the expiration of the ten days, to be conveyed to the public gaol of the nearest Court of Dewanny Adawlut, and the collector is to apply to the Court, by motion in writing to be made in open Court (if the Court shall be sitting) through the pleader of Government, for the confinement of the defaulter. If the Court shall not be sitting, the motion is to be presented to the judge out of Court. The motion is to specify the amount of the arrear due from the defaulter, and the date on which it became payable. Upon receipt of the motion, the judge is immediately to order the defaulter to be confined in the gaol of the Dewanny Adawlut, and detain him until he shall have discharged the arrear for which he may have been taken into custody, and all subsequent arrears that may become due during his confinement, or until the collector shall apply to the Court, by motion made as above directed, to have him released.—Reg. VI., 1795, sec. xi.; Reg. XXVII., 1803, sec. xi.

111. If the crops in any estate or farm shall have been damaged or destroyed by drought, inundation, or other calamity of season, or from any cause not originating in the neglect, mismanagement, or misconduct of the proprietor or farmer, and such proprietor or farmer shall fall in arrears, so as to subject himself to be confined under the preceding paragraph, and the collector shall be satisfied, from the best information which he may be able to obtain, that the defaulter is unable to make good the arrears by the end of the current month, as required in the said paragraph, either from the collections on account of such year from his estate or farm, or from his private funds or property, or by a loan, he is directed to suspend the exercise of the powers vested in him by the preceding paragraph for the confinement of the defaulter. But the collector is immediately to report the circumstances of the case to the Board of Revenue, with his reasons for not proceeding against the defaulter, and to wait for, and be guided by, the instructions which he may receive from them.—Reg. VI., 1795, sec. xiii.; Reg. XXVII., 1803, sec. xiii.

112. In all cases of the default or confinement of parties from whom revenue may be due, the collector is to issue directions to the tehseeldar of the district in which the lands of the defaulter may be situated, to levy the public revenue by realizing, in concert with the serishtadars, the defaulter's full share of the assessment on the crops to the end of the year, or until such time as he or his surety, in case he shall have given security, shall have paid up the balance, together with the charges of the peons who may have taken him into custody.—Reg. VI., 1795, sec. xiv.; Reg. XXXVII., 1803, sec. xiv., cl. 1.

113. Whenever a proprietor or farmer of land may subject himself to confinement, *and his estate or farm to attachment*, for arrears of revenue under the provisions herein contained, but if the collector shall be of opinion that, instead of confining the person of the defaulter *and attaching his estate or farm*, the arrear due from him will be more speedily discharged by distraining and selling any personal property belonging to the defaulter and his surety, according to the prescribed process, whereby landholders and farmers are authorized to recover arrears of rent from their under-tenants by distraining and selling the personal property of the latter, or if in any case, notwithstanding the confinement of a defaulting proprietor or farmer, *and the attachment*

*of his estate or farm* for an arrear of revenue, such arrear be not discharged, and the defaulter or his surety shall possess any personal property from which the same can be made good, the collector may, in all such cases, direct the tehseeldar of the district in which the personal property of the defaulter and his surety may be forthcoming, or if it be a huzoory mahal, any officer whom he may think proper to appoint for the purpose, to cause the personal property of the defaulter and his surety to be distrained and sold, as far as necessary, for the recovery of the arrear due, in the mode and under the restrictions prescribed by the Regulations with regard to the distress and sale of the personal property of under-tenants, for the recovery of arrears of rent due from them to proprietors and farmers. The collector also, in all cases wherein he may judge it expedient, is empowered to vest the tehseeldars with discretionary authority to proceed against defaulters within their respective tehseeldaries, by the established process of distress and sale, without waiting for his previous sanction; but, in such cases, the tehseeldars will be held personally answerable, if the amount for which the distress may be levied is found not to have been justly due; and in all cases wherein property may be distrained and brought to sale by the tehseeldars, they will be held responsible for any wilful deviation from the Regulations, as prescribed with regard to the agents of landholders and farmers.—Reg. V., 1800, sec. xxii.; Reg. XXVII., 1803, sec. xiv., cl. 2.

114. This sequestration of the profits of the party or parties in arrear is to extend also to the profits of all those of the brethren or putteedars whose names may be inserted in the pottah of Government, and who shall have executed the corresponding cabooleat, without, however, infringing the rights of the inferior putteedars or sharers, or in talookas, of the dependent village zemindars or under-renters, or in any case, or under any description of tenure, of the common ryots, from whom the collections are to be made by the tehseeldar according to their engagements with the defaulter or defaulters; or where no such engagements exist, according to the established rules and usages of the village or talooka; and in addition to the accounts to be kept by the serishtadars, the defaulter may appoint a person to keep a counterpart of the accounts of the receipts and disbursements.—Reg. VI., 1795, sec. xv.; Reg. XXVII., 1803, sec. xv., cl. 1.

115. *Whenever the estates of defaulting proprietors, or the farms of defaulting farmers, may be attached under paragraphs* 112 *to* 114, *if the arrear due, with any further arrear that may become due from the same proprietor or farmer, be discharged from the collections or otherwise at any period before the end of the current Fusly year, together with the amount of any expense attending the attachment, such attachment shall be immediately withdrawn, and a full and fair account rendered of all receipts and disbursements during the continuance of it.*—Reg. V., 1800, sec. xxiii.; Reg. XXVII., 1803, sec. xv., cl. 2.

116. *The injunction to the tehseeldar to collect from the ryots according to their engagements with the defaulter is not to be considered applicable to engagements evidently collusive, which may have been contracted in expectation of the attachment, with a view to prevent the officers of Government from receiving the just rents during the continuance of it. In such cases, the tehseeldar is to collect according to the established rates and usages of the pergunnah, as he is directed to do in cases where no engagement exists between the defaulter and his under-tenants. It is further hereby declared, that after the promulgation of this Regulation no anticipation of the rent will be admitted in cases of attachment.* The landholders and farmers are prohibited from demanding or receiving, and the ryots and other under-tenants are prohibited from paying, any part of the rents receivable by the former and payable by the latter before the stipulated or usual period of payment, according to the kistbundy or other engagements, or established local usage; and no person hereafter making anticipated payments against this prohibition, or producing receipts for such, whether collusive or otherwise, shall be entitled to credit for the amount from the officers of Government who may attach the lands or farm, or from the landholder or farmer making the attachment, if it be made for arrears due from an under-tenant, under the provisions herein contained. *Nor shall credit be allowed for any payment made to a defaulter after proclamation of the attachment of his estate or farm, until further proclamation be made that such attachment has been withdrawn, unless it can be clearly shown that such proclamation, which is to be made as public as possible throughout the attached lands immediately on the attachment taking place, was notwithstanding unknown to the party making payment to the defaulter at the time when such payment may have been made. Provided, however, that nothing herein contained shall be understood to exonerate the defaulter from crediting his under-tenants, or otherwise accounting for all sums received by him, whether in anticipation of the rents, or subsequently to the attachment of his estate or farm, the above restrictions having reference to the attachment only.*—Reg. V., 1800, sec. xxiv.; Reg. XXVII., 1803, sec. xv., cl. 3.

117. All complaints for any breach of the rules contained in the preceding rules, either by direct infraction of them or by unnecessary severity in the execution of them, are declared cognizable in the City and Zillah Courts, to which any of the parties may apply at all times, either in person or by vakeel. In such cases, the judge is to cause the collector or tehseeldar

(according as the act complained of may have been done by the former or the latter) to be immediately served with a copy of the complaint, fixing a date, according to the distance of place, for the party complained against to deliver in his answer. On the receipt of such copy and notice, the collector or tehseeldar, respectively, within the period limited in the notice, shall give in his answer to the Court, stating therein the amount in demand from the party or parties on whom the dustuck shall have been issued; and if the said party or parties shall not thereon dispute the justice of the demand, the judge shall stop all further proceedings in the cause. On the contrary, if the plaintiff or plaintiffs, in their replication or that of their vakeel delivered into Court, shall not allow of the justice of the demand, and shall thereon tender to the Court sufficient malzaminy or security, as well for the sum actually in demand as for such further amount as may become due from the growing kists during the trial, and condition to abide by such decree as the Court may pass, including all costs and charges, in case the plaintiff or plaintiffs be cast, the judge shall issue a written precept addressed to the tehseeldar or collector (according as the former or the latter may be the defendant), to withdraw the dustuck and peon from the plaintiff or plaintiffs in the cause. In conformity to the precept, the defendant shall withdraw his process on the party or parties complaining, and give in his answer, when if no part of the claim shall be found to be due from the complainant, the judge shall discharge him, and decree such costs and damages against the tehseeldar or the collector as he may deem equitable, upon a consideration of the circumstances of the case; and the damages so decreed shall be defrayed either by Government or the party prosecuted, according to the rules for such cases hereafter laid down. If only a part of the demand shall appear due, the Court is to discharge the prisoner upon his paying such part. In both cases, however, the Court, previous to releasing the prisoner, shall take good security from him to perform the final decision in appeal, in the event of the cause being appealed by the tehseeldar or collector, in consequence of orders from the Board of Revenue or without their orders. If the tehseeldar or collector shall state to the Court that an appeal will not be preferred from the decision, or if an appeal shall not be lodged within the time limited for preferring appeals, the judge shall release the person so confined without taking such security.—Reg. VI., 1795, sec. xvi.; Reg. XXVII., 1803, sec. xvi., cl. 1.

118. *Such part of the above rule as authorizes the judge of the Dewanny Adawlut, on security being given by the plaintiff, to issue a precept for his discharge from confinement and personal restraint, shall not be considered as directing the attachment of the plaintiff's estate or farm to be withdrawn, unless the arrear of revenue claimed from him by the collector or tehseeldar be paid;* nor shall the distress and sale of any personal property belonging to the plaintiff be stopped on account of his having instituted a suit against the collector or tehseeldar contesting the justice of the demand upon him. Provided, however, that if any proprietor or farmer of land, from whom an arrear of revenue may be demanded, shall, by a written representation to the collector, deny the justness of such demand, but to prevent any coercive process being issued against him shall discharge the demand, and shall afterwards establish, by a suit of the Dewanny Adawlut, that the amount so paid by him, or any part thereof, was not justly due, the amount of the excess so established shall be immediately repaid from the public treasury, with interest at the rate of twelve per cent. per annum, from the date on which such excess may have been received to the date of repayment.—Reg. V., 1800, sec. xxiii.; Reg. XXVII., 1803, sec. xvi., cl. 2.

119. At the expiration of the year, if an arrear shall remain due from any talookdar or zemindar, or other actual proprietor of land, the collector is to communicate the amount to the Board of Revenue, accompanied by a detailed account of the causes of the failure; when, as far as regards the lands of proprietors, if the deficiency shall clearly appear to have proceeded from his or their embezzlement or misappropriation of the funds arising from the produce, and that there be no immediate prospect of the party or parties, or his or their sureties, making good the amount, the Board of Revenue, provided from the communications of the collector it shall appear to them expedient so to do, and the Governor-General in Council shall approve of the measure, may authorize the collector to transfer the rights of the defaulting landholder to such one or more of his putteedars, or sharers, as shall be able and willing, in consideration of such transfer, to pay up the balance due to Government. In such case the defaulter is not to be entirely excluded, but is to retain, as an inferior putteedar, such a portion of neej-jote ground as, with the approbation of the collector, the putteedars who may succeed him shall be willing to allow him to hold, at the established rate of rent payable by the most inferior of the family putteedars of the same village or talooka; provided, however, that no putteedar in arrear on account of rent to the defaulter shall be allowed to take advantage of this option, which the collector is successively to tender in preference to the others, in proportion to the greater or less interest they may severally possess in the estate, until one or more of them accept or they all decline it.—Reg. VI., 1795, sec. xvii., cl. 1.; Reg. XXVII., 1803, sec. xvii., cl. 1.

120. Where such transfer of a defaulter's rights to one or more of his putteedars or sharers shall not prove effectual in realizing the balance, or in cases where the deficiency cannot be proved

to have arisen from embezzlement on the part of the landholder, but where the cause may not be of such a nature as to induce the Governor-General in Council to remit the amount, the Board of Revenue, with the sanction of the Governor-General in Council, may direct the collector either to continue the defaulter in possession, on his engaging, in such manner as shall be deemed satisfactory, to pay up his balance with the future revenue, or sequester to the use of Government the ensuing year's profits of the defaulter, in the manner and under the restrictions specified in paragraph 114. The last-mentioned measure shall be adopted where there is a reasonable prospect of at least realizing thereby the assessment payable to Government in the ensuing years; and in such instances, it shall be the duty of the collector, in like manner, in all cases in which lands are held amauny, to acquire the fullest information, and to propose to the Board of Revenue such improvements of the jydaad, or funds, as may appear practicable, by making advances for tuccavy, gilandazee, the cutting down of jungles, or by the construction of embankments or water-courses, so as not only to prevent any diminution of the produce of the lands, but to improve and increase it.—Reg. VI., 1795, sec. xvii., cl. 2; Reg. XXVII., 1803, sec. xvii., cl. 2.

121. The profits arising from the surplus collections, over and above the former fixed jumma adjusted by the permanent* settlement, after defraying the charges of improvement, whilst Government think fit to leave the lands amauny, shall be appropriated entirely to the use of the public, in the cases of all defaulting proprietors who may be dispossessed under the preceding paragraph, for embezzlement or misappropriation of the funds for the payment of the public revenue; and such zemindars shall not be reinstated, until, from their own means, they shall have paid up, or given satisfactory security for discharging the balance incurred, as well as to repay to Government the principal of the amount it shall have advanced for improving the estate. But in the other case stated in the preceding paragraph, in which embezzlement shall not have been clearly proved against the defaulting landholders, the profits or surplus collections shall be set off against the arrears due from them, and they shall be entitled to reinstatement, as soon as the arrears shall thus, or otherwise from their own funds, have been discharged, or when they shall deliver in satisfactory security for the amount, inclusive of the whole or the part of the charges of improvement incurred during their dispossession, for which Government, on a review of the circumstances of the case, shall think fit to render them responsible.—Reg. VI., 1795, sec. xvii., cl. 3; Reg. XXVII., 1803, sec. xvii., cl. 3. *Note.—(*The word* "permanent" *is omitted in the latter rule.*)

122. The rules in the three preceding paragraphs are to be understood with this reservation, that in all cases where talookdars, zemindars, or other land-owners, shall be dispossessed for arrears of revenue, Government shall have the option of letting their lands on lease, either for a term or in perpetuity, to any person or persons, in case of the dispossessed proprietors omitting or refusing to resume the management of their lands under the conditions that may be offered to them.—Reg. VI., 1795, sec. xvii., cl. 4; Reg. XXVII., 1803, sec. xvii., cl. 4.

*Benares.*

123. Where arrears shall be due by farmers near the close of the year, the recovery of which, either through themselves or their sureties, shall not have been effected by its expiration, the collector, with the sanction of the Board of Revenue, is to have recourse, in the first instance, to the ancient zemindars of the village or talooka in question; who, on paying up the farmer's balance, either immediately, or on finding security to pay it by instalments in the course of the ensuing year, shall be reinstated in their zemindary.—Reg. VI., 1795, sec. xviii., cl. 1.

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124. Where arrears shall be due by farmers near the close of the year, the recovery of which, either through themselves or their sureties, shall not have been effected by its expiration, the collector, with the sanction of the Board of Revenue, is to have recourse, in the first instance, to the person who shall appear to him to have the best claim to the village or talooka in question, who, on paying up the farmer's balance, or on giving good security to pay it by instalments in the course of the ensuing year, shall be reinstated in the estate. This, however, is not intended to decide the question of right to such estate, as any person who may consider himself to have a better claim to it than the person whom the collector shall have put in possession, is at liberty to prefer the same to the judge of the Zillah Court of Adawlut within whose jurisdiction the lands shall be situated.—Reg. XXVII., 1803, sec. xviii., cl. 1.

*Benares.*

125. Where there are no ancient zemindars, or where they decline to take on themselves the

balance of the farmer, the latter may be continued, on his stipulating, in such manner as shall be deemed satisfactory, to pay off his balance with the future revenue; or otherwise the farm is to be re-let in perpetuity, or for such term as Government may direct, to such other person or persons as, in consideration of such lease, shall immediately pay up or find satisfactory security for the removed farmer's balance, or the part of it the payment of which shall be required.—Reg. VI., 1795, sec. xviii., cl. 3.

*Ceded and Conquered Provinces.*

126. Where there are not any original proprietors, or where they shall decline taking upon themselves the balance of the farmer, the collector shall offer the village or talook to the mocuddums or purdhauns, and shall conclude the settlement with them for the same, on their agreeing to the terms specified in paragraph 124. In instances in which there are not any original proprietors, or where they shall decline taking upon themselves the balance of the farmer, and in which the mocuddums or purdhauns shall also decline to take upon themselves a similar responsibility, the farmer shall be continued, on his stipulating, in such manner as shall be deemed satisfactory, to pay off his balance with the future revenue; or otherwise the farm is to be relet, for such term as Government may direct, to such other person or persons as, in consideration of such lease, shall immediately pay up, or find satisfactory security for the removed farmer's balance, or the part of it, the payment of which shall be required.—Reg. XXVII., 1803, sec. xviii., cl. 2.

*Benares.*

127. Where neither the ancient zemindars shall be reinstated, nor the farmer in arrear be continued, nor any new farmer undertake to discharge the balance incurred, or such part thereof as Government may require, the lands are to continue amauny, under the same kind of management and regard to their improvement, as is directed in paragraph 120 to be observed, in respect to lands from which zemindars shall have been dispossessed.—Reg. VI., 1795, sec. xviii., cl. 3.

*Ceded and Conquered Provinces.*

128. Where neither the original proprietor shall be reinstated, nor the settlement be made with the mocuddums or purdhauns, nor the farmer in arrear be continued, nor any new farmer undertake to discharge the balance incurred, or such part thereof as Government may require, the lands are to continue amauny, under the same kind of management and regard to their improvement, as is directed in paragraph 120 to be observed in respect to lands from which zemindars shall have been dispossessed.—Reg. XXVII., 1803, sec. xviii., cl. 3.

*Benares and Ceded and Conquered Provinces.*

129. The Board of Revenue, in all cases in which they may judge it advisable (in addition to such recourse as is authorized to be had on the surety), may recommend to the Governor-General in Council the sale of the property of farmers in arrears, in conformity to the tenor of their engagements.—Reg. VI., 1795, sec. xviii., cl. 4; Reg. XXVII., 1803, sec. xviii., cl. 4.

130. If a tehseeldar shall issue the process prescribed in paragraphs 101 or 109 against any zemindar or other actual proprietor of land, or any farmer or surety, for payment of the amount of the instalment in demand, or of any other sum or arrears of revenue due, and the party to whom such process may be addressed shall refuse to obey, or resist, or cause to be resisted, the peon deputed to serve such process, or abscond from the peon after he shall have served such process, or retire to any place so that the process cannot be served on him, the tehseeldar who may issue the writing is immediately to represent the case to the collector, and to transmit a sooruthaul, or circumstantial report of it, under the seal of the cauzy and the attestations of the serishtadars or canoongoes; whereupon, if the party thus accused shall not intermediately have made his appearance at the collector's cutcherry, the collector shall issue a summons to him requiring him to repair to his cutcherry for the explanation of his conduct, and for the payment of his kist, along with the two peons or the single sowar, either of whom the collector, at his discretion, may depute to serve this summons. Upon the arrival of the party at the cutcherry of the collector, the latter is to inquire into the circumstances of the case, and as may appear to him proper on a consideration of them, either order the offender to be committed to temporary confinement for any term not exceeding ten days, or to exact sufficient hazir or fael zaminy from him. If the non-attendance of the party in the first instance shall be found to have arisen from any misconduct in the tehseeldar's peon who served the process, he is to be dismissed, and declared incapable of being again employed in any revenue capacity whatsoever, and accordingly no tehseeldar shall afterwards employ him; and the tehseeldar shall also be removed, in case the resistance of the party

served with the process shall appear to the collector to have arisen from the injustice of the demand of revenue made on him. Of all orders for the confinement or dismission of peons or tehseeldars, the collector is to make a separate monthly report to the Board of Revenue, who are thereon to issue such further instructions for his guidance as they may think proper.—Reg. VI., 1795, sec. xx.; Reg. XXVII., 1803, sec. xx.

131. In all cases in which the collector shall order any zemindar or farmer to be confined, under the authority vested in him by the preceding paragraph, he shall cause a notice thereof, and of the date from which such imprisonment is to commence, to be made through the vakeel of Government to the judge of the Dewanny Adawlut within whose jurisdiction the lands of such zemindar or farmer shall be situated; and such notices are to be filed of record in the Courts, to guard against any undue protraction of the term of such commitments.—Reg. VI., 1795, sec. xxi.; Reg. XXVII., 1803, sec. xxi.

132. If the party (being a talookdar, zemindar, or other actual proprietor of land) against whom the collector shall have issued process at the instance of the tehseeldar, as prescribed in paragraph 130, shall refuse to obey, or resist, or avoid compliance with the requisition of the process; or if, in the first instance, the collector shall have issued the process prescribed against any huzoory zemindar, or other actual proprietor of land, on account of arrears of public revenue, and the defaulter shall refuse to obey, or resist, or cause to be resisted, the peons deputed by the collector to convey him to gaol, or escape after being taken by them into custody, or abscond, or shut himself up in his own or any house, or in any building, or retire to any place, so that the process cannot be served upon him, the collector is immediately to represent the circumstances, through the vakeel of Government, to the Dewanny Adawlut within the jurisdiction of which the lands on account whereof the arrears shall be due may be situated; and upon the peon or peons deputed to execute the process, or any two or more credible persons making oath or affirmation to the truth of the circumstances stated in the representation of the collector, the judge, provided he shall be satisfied in his own mind from such depositions of the witnesses, and their answers upon oath or affirmation to any questions which he may put to them, that the charge is well founded, shall require the defaulter, by a publication in writing, to deliver himself into the custody of the Court within four weeks, calculating from the day following the date of publication. The publication is to be written in the Hindoostanee language and Nageree character, and shall be fixed up, as early after the date of it as may be practicable, at his usual place of abode, or the principal cutcherry in the estate on account of which arrears may be due, and the office of the collector, and the court-room of the Dewanny Adawlut of the zillah; and in the meantime, the collector is to cause the rents and revenues of the estate of the defaulter to be realized on behalf of Government, in the manner specified in paragraphs 112 to 116.—Reg. VI., 1795, sec. xxii.; Reg. XXVII., 1803, sec. xxii.

133. [Same as paragraph 61.]—Reg. VI., 1795, sec. xxiii.; and Reg. XXVII., 1803. (NOTE.—*The latter rule substitutes the following for the concluding part of paragraph* 61.) It shall be at the option of the Governor-General in Council either to order the decree to be executed, or to commute the forfeiture for such fine as, upon a consideration of the situation and circumstances in life of the defaulter, he may think adequate to the offence for which the decree may be passed. In the event of the Governor-General in Council commuting the forfeiture for a fine, the Court which shall have transmitted the decree and proceedings to the Governor-General in Council, upon receiving notice of the fine that he may impose, are to levy the amount of it, by the same process by which they are directed to enforce decrees of the Court, and to pay the amount to the collector. The process which a collector may institute against a defaulter in the Court of Adawlut of the zillah under this paragraph, as well as the prosecution or defence of any appeal from the decision of such Court which may be preferred to the Sudder Dewanny Adawlut, in which the collector may be appellant or respondent, is to be carried on at the public expense, and to be conducted by the vakeel of Government, whom the collector is to furnish with the necessary instructions.—Reg. VI., 1795, sec. xxiii.; Reg. XXVII., 1803, sec. xxiii.

134. If the defaulter mentioned in paragraph 132, shall be allowed to retain the proprietary right in his estate, Government is to account to him for the amount received from it during the sequestration; and if it shall exceed the public revenue that was due from the estate, the expenses attending the sequestration, and the fine which may be imposed on the defaulter, the overplus is to be returned to him. If the sum received through the officers of Government appointed to make the collections during the sequestration shall be inadequate to the payment of the several demands above mentioned, and the defaulter shall not make good the deficiency, a portion of his lands is to be sold for the discharge of it.—Ben. Reg. VI., 1795, sec. xxiv.; Reg. XXVII., 1803, sec. xxiv.

135. [Same as paragraph 63].—Reg. VI., 1795, sec. xxv.; Reg. XXVII., 1803, sec. xxv.

136. If the party (being a farmer) against whom the collector shall have issued his process

at the instance of the tehseeldar, as prescribed in paragraph 130, shall refuse to obey, or resist, or avoid compliance with the requisition of the process; or if, in the first instance, the collector shall have issued the process prescribed against any huzoory farmer, on account of arrears of the public revenue, and the defaulter shall refuse to obey, or resist, or cause to be resisted, the peons deputed by the collector to convey him to gaol, or escape after being taken by them into custody, or abscond, or shut himself up in his own or any house, or in any building, or retire to any place so that the process cannot be served upon him, the collector is immediately to represent the circumstances, through the vakeel of Government, to the Dewanny Adawlut of the city or zillah wherein the lands on account of which the arrears shall be due may be situated; and upon the peon or peons deputed to execute the process, or any two or more credible persons making oath or affirmation to the truth of the circumstances stated in the representation of the collector, the judge, provided he shall be satisfied in his own mind from such depositions of the witnesses, and their answers upon oath or affirmation to any questions which he may put to them, that the charge is well founded, is to require the defaulter, by a publication in writing, to deliver himself into the custody of the Court within four weeks, calculating from the day following the date of the publication. The publication is to be written in the Hindostanee language and Nageree character, and shall be fixed up, as early after the date of it as may be practicable, at his usual place of abode, or the principal cutcherry in the farm, and in the office of the collector and the court-room of the Dewanny Adawlut; and in the mean time the collector is to cause the rents and revenues of the farm of the defaulter to be realized on behalf of Government, as prescribed in paragraphs 112 and 114. If the defaulter shall not surrender himself before the expiration of the period limited in the publication, (*&c., as in paragraph* 64, *Ben. Reg. VI.*, 1715, *sec. xxvi.; Reg. XXVII.*, 1803, *sec. xxvi. The latter rule substitutes the following for the concluding part of paragraph* 64). It shall be at the option of the Governor-General in Council, either to order the decree to be executed, or to commute the forfeiture of the lease for such fine as, upon a consideration of the situation and circumstances in life of the defaulter, he may think adequate to the offence for which the decree may be passed; or if the defaulter shall not be desirous of being continued in his farm, to fine him as above prescribed, and compel him to retain the farm during the remainder of the lease, and to hold him and his surety responsible for the discharge of their engagements until the term of them shall expire. If a fine shall be imposed on the defaulter, the Court which shall have transmitted the final decree and proceedings to the Governor-General in Council, upon receiving notice of the fine, is to levy the amount of it by the same process by which they are directed to enforce decrees of the Court, and to pay the amount to the collector. The process which the collector may institute in the Adawlut of any zillah, under this paragraph, as well as any appeal that may be preferred from the decision of the Zillah Court to the Sudder Dewanny Adawlut, in which the collector may be appellant or respondent, are to be defended and carried on at the public expense, and by the vakeel of Government, whom the collector is to furnish with the necessary instructions.—Reg. XXVII., 1803, sec. xxvi.

137. If the lease of the defaulter mentioned in the preceding paragraph shall be annulled, he shall receive credit for the collections made by the officers of Government, after deducting the charges incurred which may be admitted, and if any balance shall then remain due from him to Government at the close of the year in which the lease may be cancelled, both he and his surety are to be held responsible for the payment of it, and the collector is to serve the surety with the written demand for the amount, requiring it to be paid at the treasury of the collectorship within a certain number of days after the day on which the writing may be served by the peon to be deputed for that purpose; and in the event of its not being discharged by the time limited in the writing, the collector is to proceed against the surety, and the defaulter also if he shall be forthcoming and should not have been previously confined, in the manner in which he is directed to proceed in paragraph 110 against defaulters in arrear on account of revenue. If there shall be a surplus after discharging all the demands above mentioned, it is to be paid to the defaulter, who shall be at liberty to prosecute in the City or Zillah Court the talookdars, zemindars, putteedars, distinct and common, and the under-farmers and ryots, in the land included in the farm, for any arrears of rent or revenue that may be due from them to him, on account of the period during which his lease remained in force.—Reg. VI., 1795, sec. xxvii.; Reg. XXVII., 1803, sec. xxvii.

138. [Same as paragraph 66.]—Reg. VI., 1795, sec. xxviii.; Reg. XXVII., 1803, sec. xxviii. *The latter rule substitutes the following for the concluding part of paragraph* 66. It shall be at the option of the Governor-General in Council, either to order the decree to be executed or to alleviate the fine. The Court which shall have transmitted the final decree and proceedings to the Governor-General in Council, upon receiving notice of the fine that may be imposed upon the defaulter, is to levy the amount of it, by the same process by which it is directed to enforce decrees of the Court, and to pay the amount to the collector. The process which the collector may institute in the Court of Adawlut of the zillah under this paragraph, as well as the appeals that may be preferred from the Zillah Court to the Sudder Dewanny Adawlut, in which

the collector may be appellant or respondent, are to be defended or carried on by the vakeel of Government, and at the public expense.—Reg. XXVII., 1803, sec. xxviii.

*Benares.*

NOTE.—See paragraph 39 and note.

139. When a collector shall proceed to confine the surety of any proprietor or farmer of land, in the cases authorized, he is immediately to cause such portion of the surety's lands as he may estimate to be sufficient to make good the amount of the demand, in the event of their being sold, to be attached under the rules prescribed in paragraphs 112 and 114 for the attachment of the lands of defaulting proprietors. If the surety shall not possess any landed property within the province of Benares, but shall possess lands in either of the provinces of Bengal, Behar, or Orissa, the collector is to depute an aumeen into the zillah in which such property may be situated, with the letter specifying the amount of the demand on him and the property to be attached. The collector of such zillah is immediately to order a peon to point out the property to the aumeen, who is to keep it in attachment until the Board of Revenue shall sanction the sale of it. The aumeen is to apply the amount of the collections from the lands, after deducting the expenses of his establishment, towards the discharge of the public revenue, which he is to pay to the collector of the zillah in which the lands may be situated. If any surplus shall remain after making good the public dues, it is to be appropriated towards the discharge of the demand on account of which the attachment of the lands may have been made. If the property of the surety that may be attached shall be too inconsiderable to admit of its being charged with the expense of an aumeen, the collector to whom the money due from the surety may be payable is to apply to the collector of the zillah in which the lands may be situated, to order the nearest tehseeldar or native officer employed under him in the business of the collections to take charge of the lands, and the collector to whom the application shall be made is to comply with it; and the tehseeldar or native officer to whose charge he may commit the lands is to perform the duties prescribed to the aumeen in paragraph 57, and under the same restrictions and penalties. The collector of the zillah in which the lands may be situated is not to be liable to any prosecution on account of the attachment, but the collector, in conformity to whose application the attachment may take place, is to be responsible for the consequences, in the same manner as if the lands had been situated in his own jurisdiction.—Reg. VI., 1795, sec. xxx.

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NOTE.—See paragraph 39 and note.

140. When a collector shall proceed to confine the surety of any proprietor or farmer of land in the cases authorized, he is immediately to cause such portion of the defaulter's lands as he may estimate to be sufficient to make good the amount of the demand in the event of their being sold, to be attached under the rules prescribed in paragraphs 112 and 114 for the attachment of the lands of defaulting proprietors. If the surety shall not possess any landed property within the zillah in which the lands of the defaulter shall be situated, but shall possess lands in any other zillah within the ceded provinces, or within either of the provinces of Bengal, Behar, Orissa, or Benares, the collector is to depute an aumeen into the zillah in which such property may be situated, with a letter specifying the amount of the demand on him and the property to be attached. The collector of such zillah is immediately to order a peon to point out the property to the aumeen, who is to keep it in attachment until the Board of Revenue shall sanction the sale of it.—Reg. XXVII., 1803, sec. xxx., cl. 1.

141. The expense of the establishment of the aumeen, and all other charges attending his deputation, shall be defrayed by the surety, and disbursed from the collections made from his estate or farm. The dewan or head native officer of the surety, or any other person whom he may think proper to appoint, is to keep a counterpart of the accounts of the receipts and disbursements by the aumeen. The aumeen is to collect according to the engagements that may subsist between the surety and his dependent talookdars, under-farmers, and ryots, and shall not make any alterations whatever in such engagements, or exact more than the amount specified in them. The aumeen shall be liable to a prosecution, in the Court of Adawlut of the zillah, for any alterations or infringement of such engagements. In cases in which no engagements may exist between the surety and his dependent talookdars or ryots, the aumeen is to collect from them according to the established rules and usages of the pergunnah. The aumeen shall likewise be subject to a prosecution by the proprietor of the estate, or the farmer, for embezzlement or injuries done to the estate or farm during the time that the collection of the rents and revenues of it may be intrusted to him. The aumeen is to apply the amount of the collections from the lands, after deducting the expenses of his establishment, towards the discharge of the public revenue, which he is to pay to

the collector of the zillah in which the lands may be situated. If any surplus shall remain after making good the public dues, it is to be appropriated towards the discharge of the demand on account of which the attachment of the lands may have been made.—Reg. XXVII., 1803, sec. xxx., cl. 2.

142. If the property of the surety that may be attached shall be too inconsiderable to admit of its being charged with the expense of an aumeen, the collector to whom the money due from the surety may be payable is to apply to the collector of the zillah in which the lands may be situated, to order the nearest tehseeldar or native officer employed under him in the business of the collections, to take charge of the lands; and the collector to whom the application shall be made is to comply with it, and the tehseeldar or native officer to whose charge he may commit the lands is to perform the duties prescribed to the aumeen in the preceding paragraph, and under the same restrictions and penalties. The collector of the zillah in which the lands may be situated is not to be liable to any prosecution on account of the attachment; but the collector, in conformity to whose application the attachment may take place is to be responsible for the consequences, in the same manner as if the lands had been situated in his own jurisdiction.—Reg. XXVII., 1803, sec. xxx., cl. 3.

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143. When lands are ordered to be sold, the collector (unless the lands shall have been previously committed to the charge of a tehseeldar or other native officer, in which case such officer is to perform the duties hereafter specified in this paragraph) is immediately to issue instructions to the tehseeldar of the pergunnah to hold the lands *in attachment*, collect the rents and revenues under the rules and restrictions prescribed regarding lands under attachment in paragraph 114, and to prevent waste being committed by the defaulter, and furnish any information that may be required for the adjustment of the jumma to be assessed on the lands directed to be sold.—Reg. VI., 1795, sec. xxxi.; Reg. XXVII., 1803, sec. xxxi.

NOTE.—See paragraph 39 and note. The corresponding rule for the Lower Provinces in sec. xxv., Reg. XIV., 1793, was rescinded by cl. 1, sec. ii., Reg. XI., 1822.

144. Any person confined for arrears of revenue, or other demands of Government, either pursuant to a judicial decree or without such decree, is to be at liberty to apply to the judge of the Court of Dewanny Adawlut of the city or zillah, to require the collector to show cause why he is continued in confinement. If the person making such application shall be confined under a decree passed by the Sudder Dewanny Adawlut, or of the City or a Zillah Court, and the time prescribed for appealing from the decision shall have elapsed, the judge is not to enter into the merits of the case, but only to inquire whether the prisoner has discharged the amount of the decree, and the sums which may have become due from him subsequent to his confinement. If the prisoner shall not be confined under a judicial decree, but under the process which the collector is empowered to observe before conveying persons to gaol for claims of Government, and he shall dispute the justness of the demand, the judge is not to inquire into the merits of the case, unless the party should renew his complaint, after the expiration of the period during which the collector, by the discretionary power vested in him by paragraph 110, is authorised to confine parties in arrear; which rule is hereby extended to demands on sureties and purchasers of land, as far as it can be applied to them. If, however, the prisoner shall admit the justness of the demand for which he was confined, as well as any other claims that may be made upon him for sums stated to have become due from him subsequent to his confinement, and shall assert that the whole of such sums have been discharged by him, or otherwise apply to the Court under paragraph 117, the judge is to proceed to inquire into the merits of the case. Upon examination of the prisoner's accounts of his payments, if it shall appear to the judge that the demands for which he may be in confinement have been liquidated, he is to release him, upon his giving security to make good any sum which the collector may state to be still due from him, in the event of the cause being appealed and the sum being awarded in favour of Government. If the collector shall not object to the adjustment of accounts made by the Court, or if he shall object to them and the person confined shall omit to give the security above required, and the collector shall not appeal within the time limited for preferring appeals, the judge is to release the prisoner without taking any security. If it shall be found that the whole, or a part of the sum for which such person may be in confinement, remains undischarged, and he shall acquiesce in the adjustment of accounts made by the Court, and shall have been confined on account of such demand for a term exceeding one year, the judge is empowered to release him, upon his giving good security to pay the sum remaining due from him, by instalments, during the course of one year after his release. The collector and the prisoner are to be allowed to appeal from the decision which may be passed by the Court under paragraph 117 and this paragraph, in the event of either of them being dissatisfied with it, under the rules regarding appeals.

The rules prescribed to the collector in the following paragraph, respecting the decisions therein specified, are to be considered applicable to all decisions passed under paragraph 117 and this paragraph.—Reg. VI., 1795, sec. xxxv.; Reg. XXVII., 1803, sec. xxxii.

145 to 153. [Same as paragraphs 70 to 78].—Reg. VI., 1795, secs. xxxvi. to xliv.; Reg. XXVII., 1803, secs. xxxiii. to xli. *The words* " City Court " *are introduced in the Benares rules in addition to the Zillah Court.*

154. To facilitate the communication between the collector and the vakeels in the Sudder Dewanny Adawlut, who may be entrusted with the conduct of any appeals (including appeals from decisions in the suits described in paragraph 73) in which the collector may be engaged under this Regulation, either whilst he may continue in the office of collector of the district in which the suits may have arisen or after his removal from the office, the collector is permitted to forward, free of postage, any instructions regarding such appeals, which he may have to transmit to the vakeels of those courts. The instructions are to be enclosed under cover, sealed and directed to the vakeel. The instructions, so sealed and directed, are to be transmitted under a sealed cover, addressed to the register of the Court in which the cause may be depending, and superscribed with the name and the official apellation of the collector, or that which he bore when the cause of action arose. The register of the Court, immediately upon receiving the instructions, is to deliver them sealed to the vakeel to whom they may be directed. Any person who may be removed from the office of collector, and who may have a suit or suits depending in the Dewanny Adawlut of the city or any zillah, after his removal from the office, is likewise empowered to forward instructions to his vakeel, respecting such suit or suits, through the Court. In like manner the vakeels in any of the Courts to whom the pleading of suits may be committed, by persons holding the office of collector, or after they have been removed from the office, are authorized to forward any papers which they may have to convey to their employers by the public dawk, free of postage. The papers are to be enclosed in a cover, sealed with the seal of the vakeel; and the Judge of the Court is to transmit the papers so sealed, in a cover sealed and addressed to the person to whom they are to be forwarded, and superscribe the cover with his official signature.—Reg. VI., 1795, sec. xlv.; Reg. XXVII., 1803, sec. xlii.

155 to 161. [Same as paragraphs 3, 80, 81, 82, 51, 84, 85].—Reg. VI., 1795, secs. xlvi. to lii.; Reg. XXVII., 1803, secs. xliii. to xlix. *The words* " City Court " *are introduced in the Benares rules in addition to the Zillah Court.*

162. No part of this Regulation is to be construed to authorize the confinement of the person of any joint proprietor of an estate committed to the charge of a manager (as is now the case with certain estates in the pergunnah of Kerenda) whilst such manager remains responsible. Nor to empower the collector to take a female proprietor of land into custody, or order any such proprietor to attend him in person, under any pretext whatever.—Reg. VI., 1795, sec. liii.; Reg. XXVII., 1803, sec. l.

### *Ceded and Conquered Provinces.*

NOTE.—See paragraph 39 and note.

163. *No attachment of an estate or farm shall be made without the sanction of the Board of Revenue; except in the cases where the collector may deem the same expedient to induce the payment of the arrear by the defaulter, or to obtain accurate information of the assets of the estate for the purpose of disposing of a portion of it by public sale at the close of the year, or to prevent his misappropriation of the remaining rents of the year. Where an attachment may be deemed advisable for the purposes above stated, the entire estate shall be attached. Estates or farms shall in no case be liable to attachment during the three first months of the Bengal, Fusly, or Willaity, year (according to the era current in the several districts), without the sanction of the Board of Revenue to that effect being first had and obtained by the collector. But this rule shall not be considered as applicable to attachments which have been made in the preceding year and continued after the expiration of it, with a view to the lands being brought to sale for the recovery of the arrear due from them.*—Reg. XXVII., 1803, sec. lii.

# CUTTACK.

164. Every proprietor of land and farmer of land is to cause the whole of the instalments of each month to be paid into the treasury of the collector of the zillah, or to the tehseeldar or other officer who may be appointed to receive the public revenue assessed on the estate or farm, on or before the first day of the following month, without waiting for the amount being demanded by the collector, or tehseeldar, or other officer.—Reg. X., 1818, sec. iii.

165. In the event of any arrear of revenue being undischarged on the first day of the month succeeding that for which the arrears may be due, the collector shall in ordinary cases either issue his dustuck by a peon, or send a written notice by letter through the agents of the parties in attendance at his cutcherry, requiring payment of the kist due within a certain period after the day on which the writing may be served. In fixing that period, reference shall be had to the distance of his place of residence from the estate or farm of the defaulter, so as to allow him a reasonable time to convey the money to the public treasury; and in determining which of the above modes of process shall be adopted, the collector shall be guided by a consideration of the credit and responsibility of the parties; provided, however, that in cases in which it may appear to the collector unnecessary to issue a written demand previously to the adoption of ulterior measures for the recovery of any arrear of revenue, it shall be competent to him altogether to omit that process.—Reg. X., 1818, sec. iv.

166. If the arrear demanded be not discharged by the time prescribed in the requisition issued by the collector, or where a written demand may not have been issued by the 10th of the month, the collector shall issue dustucks under his seal and signature, and the peons serving such dustucks (if the amount in demand be not paid) are to bring the party or parties to whom they are addressed, whether proprietor, farmer, or the surety of either, without delay to the collector's cutcherry. The peons serving these dustucks shall be paid at the rates already established in the province. On the arrival of the defaulters, or their sureties, at the collector's station, the collector shall make inquiry into the circumstances of the case, and if the amount demandable be not paid, may keep the party or parties under arrest (in charge of the peons with whom they arrived or otherwise), during fifteen days from the date of their arrival; provided, however, that the collector may discharge the defaulter or his surety at any time within this period, on their satisfying him that they will make good the payment required from them before the expiration of the current Hindoo month. But if such satisfaction be not given, and the collector shall not judge proper, under the discretion vested in him by the existing Regulations, in regard to cases in which the proprietor or farmer of land may be unable to discharge the arrear, from calamity of season, or other cause not originating in his or their neglect, mismanagement, or misconduct, to suspend the imprisonment of the defaulter or his surety, he shall, at the expiration of the fifteen days above specified, cause the party or parties to be conveyed to the jail of the nearest Court of Dewanny Adawlut, and shall apply to the Court by motion in writing, specifying the amount of the arrear due from the defaulter, and the date on which it became payable. The motion shall be made in open Court (if the Court shall be sitting), through the pleader of Government or other vakeel retained for the purpose, for the confinement of the defaulter; but if the Court shall not be sitting, the motion shall be presented to the judge out of Court. On receipt of the motion, the judge shall immediately order the defaulter to be confined in the jail of the Dewanny Adawlut, and detained until he shall have discharged the arrears for which he may have been taken into custody, and all subsequent arrears that may become due during his confinement, or until the collector shall apply to the Court as above directed to have him released. In all cases in which defaulting farmers or proprietors of land, or the sureties of either, shall be put in confinement, it shall be optional with the collector, at his own discretion, to attach their lands and make the collections according to subsisting engagements, excepting such as are evidently collusive, to the end of the current year, or, at the request of the parties, to allow the estate to remain under the management of an agent appointed by them: provided, however, that in neither case, if the neat collections prove insufficient to discharge the arrears due, the estate shall be considered liable to sale by public auction, under the existing rules.—Reg. X., 1818, sec. v., cl. 1.

NOTE.—See paragraph 39 and note.

167. Provided also, that the collector may proceed to attach the estate of the defaulting proprietor or farmer, or the surety of either, without arresting his or their persons, in conformity with the rules established for that process by Regulation VII. of 1799, in any month of the year. —Reg. X., 1818, sec. v., cl. 2.

168. Provided further, that if the collector shall be of opinion that, instead of confining the person of the defaulter or the surety, and attaching his estate or farm, the arrear due from him will

be more speedily discharged by distraining and selling any personal property belonging to the defaulter or his surety; or if in any case, notwithstanding the confinement of a defaulting proprietor or farmer or surety, and the attachment of his estate or farm for an arrear of revenue, such arrear be not discharged, and the defaulter or his surety shall possess any personal property from which the same can be made good, the collector may cause the personal property of the defaulter or his surety to be distrained and sold, as far as shall be necessary for the recovery of the arrear due, in the mode and under the restrictions prescribed by the Regulations with regard to the distress and sale of personal property of under-tenants, for the recovery of arrears of rent due from them to proprietors and farmers.—Reg. X., 1818, sec. v., cl. 3.

169. Provided, likewise, that whenever any portion of an instalment of revenue, payable in any month, remains undischarged on the first of the following month, the collector may forthwith, or at any subsequent period (such arrear still remaining undischarged), with or without serving on the defaulter, whether a proprietor or farmer, a written demand, advertise lands the property of the defaulter or his surety for public sale, reporting the same with all convenient expedition to the Board of Revenue, or other authority exercising the powers of that Board; but the collector shall in no case proceed to the actual sale of the landed property of a defaulting proprietor or farmer, or the surety of either, without the express sanction of the Board, or other authority aforesaid, previously obtained; and it shall be the duty of the revenue authorities to avoid having recourse to the public sale of the landed property of defaulters and their sureties, except in cases in which they may be satisfied that such a measure is necessary to the realization of the dues of Government, and that the other measures authorized in the preceding paragraphs would prove insufficient for that purpose.—Reg. X., 1818, sec. v., cl. 4.

170. Under the ample powers now vested in the collectors of Cuttack and Hidgellee, for ascertaining the assets of estates lying within the district and pergunnahs, to which this Regulation extends, by the process of attachment, and for bringing defaulters into their presence as soon as an arrear becomes due, it is expected, that in all instances of arrears accruing within the said district and pergunnahs, the above-named functionaries will be particularly careful to inform themselves, as far as possible, of the real cause of the arrear, viz., whether want of good faith on the part of the defaulter, or actual inability from a failure in his rents, from calamity of season, or from any other cause. When the collector, from the report of his Mofussil officers, from personal observations, or from other information obtained by him, shall be satisfied that the defaulter, whether proprietor or farmer, is unable from real inability, not proceeding from any personal deficiency, to make good his arrears by the periods specified in paragraphs 166 to 169, either from the collections from his estate or farm, or from his private funds or property, he is directed to suspend the exercise of the powers vested in him for the confinement of the defaulter, the attachment of his estate, the distraint and sale of his or his surety's personal property, and immediate advertisement of his or his surety's landed property for sale by public auction; but the collector shall on such occasions immediately report all the circumstances of the case to the Board of Revenue, or other authority exercising the powers of that Board, and shall be guided by the instructions which he may receive from the Board or other authority aforesaid. In forwarding his monthly towjees also to the Board, or other authority exercising the powers of that Board, the collector shall state particularly the number of cases in which he has found it necessary to resort to coercive measures of the nature authorized in preceding paragraphs, as well as those in which he has considered it just and expedient to suspend the exercise of his powers; and the Board, or other authority aforesaid, are hereby required to notice in their reports to the Governor-General in Council on the towjee accounts of the district and pergunnahs aforesaid, the attention or otherwise of the collector to this important part of his duty.—Reg. X., 1818, sec. vii.

171. Nothing contained in this Regulation shall be understood to alter or affect any of the provisions of existing Regulations relative to the collection of the land revenue in the zillah of Cuttack, excepting where they are virtually or expressly superseded or modified by any of the above enactments.—Reg. X., 1818, sec. viii.

## JOINT AND PUTTEEDARY ESTATES.

172. Whenever an arrear of revenue shall accrue on account of any mehaul for which an engagement may have been taken by the proprietors or persons recorded as proprietors, not being an estate of which the assessment has been fixed in perpetuity, and the malguzars shall fail to discharge the same within one month of the date on which it became due, then if there shall appear to be any objection to the sale of the estate, and the arrears cannot otherwise be recovered (on which points the decision of the revenue authorities is to be held conclusive), it shall be competent to the collector, or other officer exercising the powers of collector, with the sanction of

the Board, and subject to the orders of Government, to annul the existing engagements with the malguzars, and to let the mehaul in farm for such period, not exceeding fifteen years, as the Governor-General in Council may appoint, or to hold the mehaul under khas management for a like period. In such cases, if the mehaul shall yield a higher jumma than that for which the malguzars may have engaged, the excess shall in the first place be appropriated to the liquidation of the arrear due on account of it, or such portion thereof as the farmer may not have separately agreed to discharge, or as may not otherwise have been recovered, and, out of any surplus remaining, the malguzars shall receive such malikana, not being less than five per cent. nor more than ten per cent. on the assessment of the last year of their engagement, as the Governor-General in Council may direct.—Reg. IX., 1825, sec. iv.

173. A putteedary estate in this Act is held to be an estate which consists of two or more separate portions or puttees, or of which there may be proprietors possessed of separate properties and holding direct of the Government, but not parties in their own names to the contract with the Government for payment of the public revenue. The proprietor who is a party in his own name is called a lumberdar; and the proprietor who is not a party in his own name is called a putteedar. —Act. I., 1841, sec. ii.

174. The following modes of duress may be enforced against all putteedars whose tenure and interest may have been defined by a settlement formed according to Regulation VII., of 1822, as modified by Regulation IX., of 1833 ("SETTLEMENT"), whether every such putteedar be in sole occupation of his puttee, or hold it in common with others.

1st. Issue of dustucks in the same manner, and under the same limitation, as authorized by the rules in force for lumberdars.

2nd. Arrest, detention, imprisonment, distraint and sale of personal property as now authorized to be enforced against lumberdars.

3rd. Transfer of the defaulting puttee in perpetuity to the members of any other puttee which may not be in arrear.

4th. Annulment of the settlement as regards the defaulting puttee, and lease thereof to the members of any other puttee which may not be in arrear, or to a stranger for any term not exceeding fifteen years.

5th. Sale of the defaulting puttee by public auction, in which case the members of the remaining puttees who may not be in arrear are authorized to bid.—Act. I., 1841, sec. iii.

175. On occasion of the sale by public auction of any puttee, if the lot shall have been knocked down to a stranger, any putteedar or other member of the coparcenary not being himself in arrear may claim to take the said puttee at the sum last bid, provided that the said demand of pre-emption be made on the day of sale and before the collector shall have left the office, and provided that the claimant fulfil all the other conditions of the sale.—Act I., 1841, sec. iv.

176. The above methods shall be employed by the collector or other officers vested with the powers of collector, under such limitation and control as Government or other superior revenue authorities shall see fit to prescribe or enforce.—Act I., 1841, sec. v.

177. The sale of any puttee by public auction shall be effected in respect to the notice to be issued, the authority to be obtained, and the mode of conducting the sale according to the rules prescribed by law from time to time for the sale of an entire mehaul, and the puttee, after the sale shall have been duly confirmed, shall be the absolute property of the purchaser, save and except the rights of those ryots whose right to the permanent occupancy of their lands may have been recognized, and the rates of rent payable by whom may have been adjusted and recorded at the last settlement.—Act I., 1841, sec. vi.

178. In case of the lease or other temporary transfer of any puttee as above said, no member of that puttee shall be entitled to cultivate any land therein during the term of such transfer; or in case of absolute sale, no member of the puttee shall be entitled to hold or cultivate any land therein from and after the month of Bysack next succeeding such sale, unless the said member of such sold or transferred puttee shall first execute a written engagement to pay rent to the purchaser or transferee at the rate demanded by the purchaser or transferee. Provided, that it shall be competent to the collector, subject to the orders of the Commissioner and the Sudder Board of Revenue, if the rate cannot be fixed by private bargain between the parties, to cause the same to be fixed by a jury of the vicinage in the mode directed by Sections V. to X., Regulation IX., of 1833 ("SETTLEMENT," paragraphs 418 to 423).—Act I., 1841, sec. vii.

179. A copy of the jumma wasil bakee and detailed kuteonee of the tehseeldar, signed and sealed by him, and countersigned by the canoongoes and putwarry, exhibiting in detail the amount paid by and arrear due from each puttee, shall be taken to be sufficient evidence of the arrear due from that puttee, and these papers shall invariably be filed with the collector's proceedings.—Act I., 1841, sec. viii.

180. The collector shall be empowered to give possession to all purchasers and transferees under this Act in the mode authorized by Clause Third, Section XXIII., of Regulation VII., of 1822 ("SETTLEMENT," paragraph 394).—Act I., 1841, sec. ix.

181. Nothing contained in this Act shall bar the indefeasible right of Government to hold the entire body of proprietors and the entire estate responsible for the amount of the whole jumma, and to enforce the existing Regulations for the transfer or sale of the whole estate whenever it shall appear to them just and expedient. In every such case it is hereby declared, that the entire proprietary rights of every member of the coparcenary shall be annulled and forfeited, and the provision of paragraph 178 shall be applicable to every member of the coparcenary.—Act I., 1841, sec. x.

182. The Governor-General in Council may extend the provisions of this Act to any district to which with reference to the nature of the tenures prevalent therein its extension may be expedient, although no settlement of such district may have been made under Regulations VII., of 1822, and IX., of 1833 ("SETTLEMENT"), and the order of Government shall be sufficient authority for such extension.—Act I., 1841, sec. xi.

NOTE.—See rules for the recovery of arrears from separated puttees, or shares, in secs. xiii., xiv., xv., Reg. IX., 1811 ("DIVISION OF ESTATES," paragraphs 61, 62, 63).

# LAND REVENUE.

## UNDER-TENURES, AND TENANTS' ENGAGEMENTS—TENURE OF LAND BY EUROPEANS.

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# LAND REVENUE.

## UNDER-TENURES, AND TENANTS' ENGAGEMENTS—TENURE OF LAND BY EUROPEANS.

### LOWER PROVINCES.

NOTE.—The fundamental rules in respect of talooks and under-tenures in the Lower Provinces are included among the rules for the decennial settlement, in Regulation VIII., 1793 ("SETTLEMENT").

1. The rules contained in Regulation VIII., 1793 ("SETTLEMENT," paragraphs 17 to 27), for the separation of certain talookdars, the actual proprietors of the lands composing their talooks, from the zemindaries to which they were attached at the period of the decennial settlement, having been construed to entitle talookdars of that description, who did not apply for separation at the time of the decennial settlement, to be separated on their application at any subsequent period; and it being necessary, for the security of purchasers at the public sales, that some period should be fixed for the operation of the above rules, to prevent their being at all times liable to deprivation of a part of their purchases, it is hereby required, that all talookdars who, as proprietors of the lands composing their talooks, may consider themselves entitled, under Section V., Regulation VIII., 1793 ("SETTLEMENT," paragraph 17), or any other part of that Regulation, to be separated from the zemindaries to which their talooks are attached, shall prefer a written application to the collector of the zillah in which their talooks may be situated for the separation thereof, within one year from the date of this Regulation, under penalty of forfeiting all title to separation under Regulation VIII., 1793, if they shall omit to apply, as directed, within the prescribed period; at the expiration of which, the operation of the section above mentioned shall be considered extinct with regard to all talooks for which no claim to separation may have been then preferred, and such talooks shall thereafter be considered as dependent talooks, not entitled to be separated from the zemindaries to which they may be attached, though in other respects the rights of the talookdars are not meant to be in any degree affected by this Regulation. It is further hereby declared, that the rules regarding separable talooks contained in Regulation VIII., 1793, were never meant to be applied to any new talooks constituted since the period of the decennial settlement. By Section IX., Regulation I., 1793 ("SETTLEMENT," paragraph 10), the zemindars and all other proprietors of land have been declared at liberty to transfer by sale, gift, or otherwise, their proprietary rights in the whole or any portion of their respective estates; but by Section X. ("SETTLEMENT," paragraph 11) of the same Regulation, it is required that all such transfers be notified to the collector of the zillah, that the fixed jumma assessed upon the whole estate may be apportioned on the several shares in the manner therein prescribed; that the names of the proprietors of each share and the jumma assessed thereon may be entered upon the public registers, and that separate engagements for the payment of the jumma assessed upon each share may be executed by the proprietors, who are thenceforward to be considered separate proprietors of distinct estates; but until such notification and separation shall have been made, the whole of the estate is declared responsible to Government for the discharge of the fixed jumma assessed upon it, in the same manner as if no transfer had taken place. This declaration is also repeated in Section XXVIII., Regulation XIX., 1814, which contains the specific rules established by Government for the division of estates paying revenue, and the allotment of the jumma upon the several portions thereof. If, therefore, any zemindar shall have disposed of his proprietary rights in any portion of his zemindary subsequently to the promulgation of the Regulation above mentioned, whether under the denomination of an independent talook or otherwise, and the talookdar, or other person to whom the portion of an estate may have been so transferred, shall have omitted to obtain a separate allotment of the public assessment thereon, in the mode prescribed by the Regulations, such transfer, as far as respects the rights of Government, must be considered altogether invalid; and if the land so privately transferred, but not separately assessed, should have been since, or shall be hereafter, included in any public sale for arrears of revenue, the illicit and imperfect private transfer must be deemed to have been altogether done away. In such cases, the lands transferred, until publicly registered and separately assessed, form part of an undivided estate, and, as such, are liable to be sold for any arrear of revenue which may be due from any part of the estate. Provided, however, that nothing in this paragraph be considered applicable to dependent talooks, or other tenures dependent on the estate to which they are

attached, and from which, by their title-deeds or otherwise, they are not to be entitled to be separated as a distinct estate. Paragraph 3 authorizes and confirms such tenures, subject to the restrictions contained in paragraph 3, with the explanation in paragraph 8.—Reg. I., 1801, sec. xiv.

### *Under-Tenures.*

NOTE.—The following rules, so far as they relate to the avoidance of under-tenures after a public sale for arrears of revenue, are superseded by secs. xxvi. and xxvii., Act I., 1845 ("REALIZATION OF REVENUE," paragraphs 30, 31); but under the provisions of sec. xi., Reg. V., 1812 (paragraph 72), they would seem to be still applicable, in all cases of attachment, to managers under the Court of Wards and to farmers.

2. Whenever the whole or a portion of the lands of any zemindar, independent talookdar, or other actual proprietor of land, shall be *disposed of at public sale for the discharge of arrears of the public assessment*, all engagements which such proprietors shall have contracted with dependent talookdars whose talooks may be situated in the lands sold, as also all leases to under-farmers, and pottahs to ryots for the cultivation of the whole or any part of such lands (with the exception of the engagements, pottahs, and leases, specified in paragraphs 4 and 5), shall stand cancelled from the day of *sale*, and *the purchaser or purchasers* of the lands shall be at liberty to collect from such dependent talookdars, and from the ryots or cultivators of the lands let in farm, and the lands not farmed, whatever the former proprietor would have been entitled to demand according to the established usages and rates of the pergunnah or district in which such lands may be situated, had the engagements so cancelled never existed.—Reg. XLIV., 1793, sec. v.

3. Nothing herein contained shall be construed to prohibit any zemindar, independent talookdar, or other actual proprietor of land, selling, giving, or otherwise disposing of any part of his lands as a dependent talook.—Reg. XLIV., 1793, sec. vi.

4. Nor to authorize the assessment of any increase upon the lands of such dependent talookdars as were exempted from any increase of assessment at the forming of the decennial settlement, in virtue of the prohibition contained in Clause First, Section LI., Regulation VIII., 1793 ("SETTLEMENT," paragraph 59). The revenue payable by such dependent talookdars is declared fixed for ever, and their lands are accordingly to be rated at such fixed assessment in all divisions of the estate in which their talooks are included.—Reg. XLIV., 1793, sec. vii.

5. Nor to prohibit actual proprietors of land granting, without the sanction of Government or its officers, to any person not being a European who is not a British subject, a lease or pottah for ground for any term of years, or in perpetuity, for the erection of dwelling-houses, or buildings for carrying on manufactures, or for gardens, or other purposes, and for offices for such houses or buildings.—Reg. XLIV., 1793, sec. viii.; and Act IV., 1837.

### *Pottahs.*

6. The ryots in the different parts of the country frequently omitting or refusing to take out or receive pottahs, although the persons from whom they are entitled to demand them are ready to grant them on the terms prescribed by the Regulations, it is declared, that if a proprietor or farmer of land, or a dependent talookdar, shall fix up in the principal cutcherry or cutcherries of his estate or farm a notification in writing, under his seal and signature, specifying that pottahs at the established rates will be immediately granted to all ryots who may apply for them, and stating where, and when, and by whom, the pottahs will be delivered, the notification shall be considered as a legal tender of a pottah, and the proprietor of land, the farmer, or the dependent talookdar, shall be deemed to have complied with the orders in Section LIX., Regulation VIII., 1793 ("SETTLEMENT," paragraph 66), and the persons so tendering pottahs shall be entitled to recover the rents due to them from such ryots, either by the prescribed process of distraint, or by suit in the Dewanny Adawlut.—Reg. IV., 1794, sec. v.; Reg. V., 1812, sec. iii.

7. If a dispute shall arise between the ryots and the persons from whom they may be entitled to demand pottahs, regarding the rates of the pottahs (whether the rent be payable in money or kind), it shall be determined in the Dewanny Adawlut of the zillah in which the lands may be situated, according to the rates established in the pergunnah for lands of the same description and quality as those respecting which the dispute may arise.—Reg. IV., 1794, sec. vi.; Reg. V., 1812, sec. iii.

8. The rules in the preceding paragraph are to be considered applicable not only to the pottahs which the ryots are entitled to demand in the first instance, under Regulation VIII., 1793, but also to the renewal of pottahs which may expire or become cancelled under paragraph 2. And to remove all doubts regarding the rates at which the ryots shall be entitled to have such pottahs renewed, it is declared, that no proprietor or farmer of land, or any other person, shall require ryots whose pottahs may expire or become cancelled under paragraph 2, to take out new pottahs at higher rates than the established rates of the pergunnah for lands of the same quality and

description, but that ryots shall be entitled to have such pottahs renewed at the established rates, upon making application for that purpose to the person by whom their pottahs are to be granted, in the same manner as they are entitled to demand pottahs in the first instance by Regulation VIII., 1793.—Reg. IV., 1794, sec. vii.; Reg. V., 1812, sec. iii.

NOTE.—See further rules, commencing with paragraph 57.

### *Under-Tenures.*

9. Whenever the whole or a portion of the lands of any talookdar, zemindar, or other actual proprietor of land, shall be *disposed of at public sale for the discharge of arrears of the public assessment*, all engagements which such proprietor shall have contracted with dependent tenants whose tenancies may be situated in the lands sold, as also all leases to under-farmers, and pottahs to ryots for the cultivation of the whole or of any part of such lands (with the exception of the engagements, pottahs, and leases, specified in paragraph 11) shall stand cancelled from the day of sale, and the purchaser or purchasers of the lands shall be at liberty to collect from such dependent tenants, and from the ryots or cultivators of the lands let in farm and the lands not farmed, whatever the former proprietor would have been entitled to demand, according to the established usages and rates of the pergunnah or district in which such lands may be situated, had the engagements so cancelled never existed.—Reg. L., 1795, sec. v.

10. Nothing herein contained shall be construed to prohibit any talookdar, zemindar, or other actual proprietor of land, selling, giving, or otherwise (as far as he may be legally competent) disposing of any part of his lands as a dependent tenancy, whether as a zemindary or putteedary.—Reg. L., 1795, sec. vi.

11. Nor to prohibit actual proprietors of land granting, without the sanction of Government or its officers, to any person not being a European who is not a British subject, a lease or pottah for ground, for any term of years, or in perpetuity, for the erection of dwelling-houses, or buildings for carrying on manufactures, or other purposes, and for offices for such houses or buildings, or for gardens.—Reg. L., 1795, sec. vii.; and Act IV., 1837.

### *Ryotty Pottahs.*

12. To prevent undue demands being made on the ryots or cultivators of the soil, by the aumils, zemindars, farmers, or others, entitled to levy from them the hakimee or Government's proportion of the produce, aumeens were deputed by the resident at Benares, on the 12th February, 1795, to cause pottahs to be granted to the ryots agreeably to certain forms, by which their payments were to be regulated. For reasons hereafter stated, these aumeens were recalled before they had completed the issue of the prescribed pottahs. The instructions to these officers, with alterations and additions, calculated for the more effectual accomplishment of the object of those instructions, are now enacted into a Regulation, and are to be considered as the rules respecting ryotty pottahs throughout the districts in the province of Benares, to which the settlement concluded by the resident extended.—Reg. LI., 1795, sec. i.

13. Orders were repeatedly issued to the aumils and canongoes to cause the zemindars and farmers to issue to their ryots bilmokta pottahs (i. e. pottahs with the maal and abwab consolidated), for the nukdy or money part of the rent payable to them, and to specify therein where the rent is estimated according to the produce, the mode of the betay or division of the crop, and also the proportions in which the division was to be made (viz., whether in equal proportions, or in the proportions of seven to nine, or of five to two, or of two to one, or according to whatever local zebetaneh or custom might be prevalent in each place); and the aumils were also repeatedly enjoined to issue similar pottahs, in those parts of the pergunnahs which continued amauny. There being ground to believe, however, that notwithstanding these orders the prescribed pottahs had not been duly issued, aumeens were deputed, on the 12th of February, 1795, to cause them to be granted throughout all that part of the four sircars to which the general settlement had extended. The aumeens thus deputed were accordingly furnished with instructions to cause the talookdars, zemindars, and farmers, in the mushukhusy mozahs, or villages for which a settlement had been concluded, and the aumils in the villages which remained amauny, to grant the prescribed pottahs to the ryots and cultivators, in conformity to a draft prepared for the purpose; the pottahs to be granted to every ryot and cultivator in the mushukhusy villages to specify with precision the rates of payment according to the two last years as far as regarded the nukdy or money part thereof, and also the modes and proportion of the betay where the payments of the ryots were

estimated in kind or upon the produce; and in the event of the rates to be thus inserted in the pottahs being anywhere disputed between the aumils or malguzars on the one part, and the ryots on the other, such disputed rates were directed to be regulated and adjusted on reference to the accounts of the putwarries, and with the assistance of the canongoes; so that consideration being had to the present condition of the ground and the caste of the cultivator, the bilmokta rye or rate, inclusive of maal and abwab on account of such ground, might be fixed at the same rate as that at which a cultivator of the same caste would have been assessed for it in the Fusly year 1187. —Reg. LI., 1795, sec. ii., cl. 1.

14. Under these instructions, where the custom of mootry (or the payment of one general rate for different kinds of ground and of crop) was found to prevail, the aumeens were directed to continue it, and even to endeavour to extend it, wherever the parties concerned might voluntarily agree to its adoption.—Reg. LI., 1795, sec. ii., cl. 2.

15. In pottahs issued for a money rent, with the exception of those granted for mootry tenures, the number of begahs, the description of begah (viz., whether the begah computed by the rod of three deras ilahee, the begah of the measure prevalent in the pergunnah, or the dherawat, or begah ascertained by estimate), and the bilmokta rye or consolidated rate of assessment on each of such begahs were directed to be specified, so as to preclude the necessity of superadding to such rate the kesraat, or difference of rate proportionate to the variation in the extent of the several descriptions of begahs. For this purpose it was ordered, that the malguzars and ryots, with the assistance of the opinions of the canongoes and the approbation of the aumeens, should fix at once the bilmokta rye, or consolidated rate, in one sum, in proportion to the extent of the begah, leaving it to the parties to determine on which of these three descriptions of begahs the calculation of the rye should be made, instead of confining them to one description of begah, as had been prescribed by the rule contained in Section IV., Regulation II., 1795. ("SETTLEMENT," paragraph 115). —Reg. LI., 1795, sec. ii., cl. 3.

16. In the event of any of the putteedars being desirous of obtaining pottahs for the land cultivated by them, the aumeens were instructed to cause the pottahdars, or persons holding pottahs of Government, to grant pottahs accordingly, in conformity to the principles above prescribed. But if such putteedars should not apply for pottahs, the aumeens were informed that they were not to cause pottahs to be granted to them, but were to leave them to continue to pay as formerly, i. e., subordinately to, and in conjunction with, their principals.—Reg. LI., 1795, sec. ii., cl. 4.

17. In the mushukhusy lands, these pottahs were directed to be issued with the concurrence of the aumeen and under the signatures of the grantors (i. e., the pottahdars of Government), and to be attested also by the canongoes. In the villages which were continued amauny, it was directed that the said pottahs should be issued by the aumils, under their signature and the attestation of the canongoes, and that they should also be countersigned by the aumeens; as, for the future, the aumils neither had, nor were to possess any authority to augment or diminish the rental of Government, their duties being limited to the realizing of the fixed revenue, the preservation of the peace throughout their respective limits, and the execution of such orders as might occasionally be addressed to them.—Reg. LI., 1795, sec. ii., cl. 5.

18. The zeyl, or detailed particulars, annexed to the form of pottah, with which the aumeens were furnished, contained an enumeration of the different modes of ryotty payments, whether of mootry, nukdy, herkowla, or betay, and of purtee, keel, and jungle, &c., one or other of which would necessarily be found applicable to the land and circumstances of every cultivator; and it was pointed out to the aumeens, that the pottahs of those ryots only whose cultivation was carried on agreeably to the practice termed mootry, and no other, were to specify the amount of the rent annexed to their pottahs under that single head only; whilst, in instances in which ryots cultivated not only on mootry but also on nukdy and betay agreements, this form of pottah also prescribed how the particulars of the zeyl were, under such circumstances, to be subjoined, at the same time that it comprehended, under the several heads of cultivation, a specification of the denomination of begah, in order that, as all the three descriptions of begahs particularized in paragraph 15 were more or less in use in the province, it might be left to the option of the malguzars and ryots to adopt in their engagements whichever of these three standards they might prefer, the aumeens being required only to see that the description of begah agreed on should in every instance be specified.—Reg. LI., 1795, sec. ii., cl. 6.

19. The following is a translate of the general form of pottah with which the aumeens were furnished:—

"A pottah of engagement and stipulation in the name of ———, according to the zeyl, without abwab or serf. The fota or rent for the entire year of the cultivation shall be taken bilmokta, or according to one rate; and exclusive of that, neither a daam or dhirm shall be taken.

"ZEYL, OR ANNEXED SPECIFICATION OF RENT.

"*Nukdy or money rent.*

"1*st.* Mootry 12 begahs (either of 3 dera ilahee, or pergunnah begahs, or dherawat or estimated begahs), at 3 rupees 2 annas per begah, Rs. 37 8 0.

"2*nd.* Kwyraur, &c. (being for the more valuable articles of cultivation) 13 begahs (whether of 3 dera ilahee, or pergunnah measurement, or dherawat), viz.:—

| | | | |
|---|---|---|---|
| Sugar-cane 10 begahs, at 5 rupees 1 anna per begah ..... | 50 | 10 | 0 |
| Tobacco 2 begahs, at 6 rupees per begah..... | 12 | 0 | 0 |
| Moolee or vegetables 1 begah, at 2 rupees 1 anna per begah ..... | 2 | 1 | 0 |
| | 64 | 11 | 0 |

And where, from the change in the cultivation, a new pottah shall become necessary, it shall be granted according to the rates of the two last years, with the privity of the canongoes, according to the shirabundy, or established rates of the pergunnah, and I (the zemindar or farmer) shall certainly not object to give a pottah.

"3*rd.* Herkowla, or for common nukdy cultivation, 12 begahs (either the 3 dera ilahee, or of pergunnah measurement, or of dherawat), at different rates:—

| | | | |
|---|---|---|---|
| 1st. 2 begahs at 1 8 ..... | 3 | 0 | 0 |
| 2nd. 3 begahs at 1 12 ..... | 5 | 4 | 0 |
| 3rd. 3 begahs at 1 4 ..... | 3 | 12 | 0 |
| 4th. 2 begahs at 1 0 ..... | 2 | 0 | 0 |
| 5th. 1 begah at 1 2 ..... | 1 | 2 | 0 |
| 6th. 1 begah at 0 12 ..... | 0 | 12 | 0 |
| | 15 | 14 | 0 |

"*Bhawullee or betay,* i. e., *where the rent is in proportion to the crop.*

"The begah to be of 3 dera ilahee measurement, or pergunnah, or dherawat measurement, and the rent to be assessed by kunkoot or appraisement, either at half-and-half, or 9 to 7, or 5 to 2, or 2 to 1, according to the local usage, and the money assessment thereon to be according to the current market price, as fixed for each harvest by Government.

"Purtee, and keel, and jungle land, according to the good-will of the parties, either on a nukdy or betay engagement."

—Reg. LI., 1795, sec. ii., cl. 7.

20. On the departure of these aumeens, the strongest assurances were published to all the zemindars and farmers, that the object of their deputation was solely to insure from them that justice to their ryots which Government had bound itself to observe to them, by concluding with them a permanent settlement, the conditions of which would on no account be infringed. A considerable degree of jealousy, however, was manifested by the zemindars and farmers during the progress of the aumeens, several of whom represented the difficulties which they experienced in the execution of their instructions, both from the above and other causes. These difficulties are stated in the following paragraphs, with a view to future eventual arrangements.—Reg. LI., 1795, sec. iii., cl. 1.

21. The aumeen in the tuppah of Ophroude, in the pergunnah of Chourassy, represented that several places in that tuppah were without putwarries; and as similar complaints were received from other parts of the district, the aumeens were, in reply, directed to cause the proprietors and farmers to appoint putwarries wherever they were wanted; and in the meantime to oblige the gomastahs of the said proprietors or farmers, or the officers entertained for keeping such written or other village accounts as are kept, to produce them to the Courts of judicature or to the collector, in the instances in which either are empowered by the Regulations to require them.—Reg. LI., 1795, sec. iii., cl. 2.

22. Several ryots in the pergunnah of Chownsa and other parts, who had been used to divide the grain with the zemindar or farmer in the mode called agore, according to the produce, would

not take pottahs specifying either any rent per begah, or even the number of begahs which they cultivated; circumstances that are adverted to, and in some measure provided for, in Section XXI., Regulation II., 1795 ("SETTLEMENT," paragraph 130).—Reg. LI., 1795, sec. iii., cl. 3.

23. The aumeen in the tuppah of Kone, in the pergunnah of Chourassy, represented that sundry zemindars had mortgaged a part of their lands to other zemindars, and had, in consideration thereof, given them pottahs at lower rates than the established ones, so as merely to prove equal to the payment of Government's jumma, whilst the mortgagees caused the grounds in question to be cultivated by other ryots, from whom they took the usual rate of rent. The aumeens desired instructions whether they should cause pottahs to be given to these mortgagees according to those which they held from the zemindars, or whether the pottahs should be issued at such rates as the mortgagees exacted from the ryots. In reply to this application, the aumeens were directed to cause pottahs of the last-mentioned description to be issued to the ryots, not, however, by the proprietors, but by the mortgagees; and they were further informed that this rule was to be observed in all similar cases.—Reg. LI., 1795, sec. iii., cl. 4.

24. It appearing by a representation from the aumeen at Mureeahoo, that the zemindars and farmers concealed the revenue lands in their occupancy by pretending to have assigned them, in larger proportions than was ever usual, to the putwarries, for their maintenance or otherwise, the aumeen was instructed not to admit of this abuse, but to cause pottahs to be issued for all grounds over and above the usual quantity granted to the putwarries for their maintenance in their official situations.—Reg. LI., 1795, sec. iii., cl. 5.

25. The aumeen in the pergunnah of Baleeah represented that, although his instructions required that the rate of rent should be fixed bilmokta, or in one sum, there were circumstances which rendered the observance of this rule in some instances impracticable; such as various abwabs proportionally added in the betay ryotty tenure to the money result of the jumma or valuation of the crop, according to the market prices of grain, these abwabs being often at the rate of one anna or of two annas per rupee on the valuation of the crop, on account of batta, and perhaps of three annas for the deh-khurch per begah; whilst in several other villages these articles of batta and khurch were levied uniformly at a certain rate per rupee on the amount of the valuation of the crop, as aforesaid. That it was therefore evident that these money rates could not be taken into account, so as to admit of their amount being ascertained in a betay pottah, farther than by fixing their proportional rates in the rupee on the amount of the valuation of the crop, or on the begah of the cultivation, as the local custom might in either case require. This aumeen was accordingly instructed to confine himself to the insertion of these proportionate rates of abwabs.—Reg. LI., 1795, sec. iii., cl. 6.

26. It appeared that in sundry villages in the pergunnah of Kureendeh it had been and continued the custom amongst the malguzars and assamees (*i. e.*, the zemindars or farmers and the ryots) to carry on their cultivation and keep their accounts according to the practice termed by them kutcha dherawat gortaur, that is, where the begahs are measured by steps, of which one begah is equal only to eight pukhta biswas, and two and half of kutcha begahs to one pukhta begah. The aumeen in that pergunnah having hereon reported that the ryots in such places could not be made, without great difficulty, to comprehend the advantage of calculating by the pukhta instead of the kutcha begah, directions were given that their own customs should be continued, on condition that the description of the begah, and the mode of measurement, should be clearly specified in the pottahs to be granted in such places.—Reg. LI., 1795, sec. iii., cl. 7.

27. In the said pergunnah of Kureendeh it was on the same day ordered, in reply to a query from the aumeen, that where the serberakars or managers (mentioned in Section XVII., Regulation II., 1795 ("SETTLEMENT," paragraph 128), were on terms of good understanding with the zemindars, they might, if they pleased, affix their signatures to the pottahs to be granted to the ryots, but that wherever it became a question which of them should have the preference, it must be allowed to the serberakar as long as the latter remained responsible for the revenue.—Reg. LI., 1795, sec. iii., cl. 8.

28. The same aumeen having reported that in Pehaurpoor, and some other villages in Kureendeh, he had issued the pottahs in the terms of his instructions, although in fact it had been and still was customary for the zemindars, putteedars, and other chupperbund assamees or ryots, to meet together, and to lay on such a money assessment on the Government's half of the grain as might make up the public revenue; it was thereupon ordered, that those who preferred this mode might adhere to it, and even have this condition inserted in their pottahs, without the stipulation that such assessment should be founded on the market price, as is the rule in general for all other places.—Reg. LI., 1795, sec. iii., cl. 9.

29. The aumeen in the pergunnah of Mohammedabad reported that certain persons in that district, claiming to be the descendants of the ancient zemindars of villages now rented to farmers, refused to receive pottahs for the ground which they cultivated from the latter, alleging that they should thereby suffer degradation.—Reg. LI., 1795, sec. iii., cl. 10.

30. The deputation of the aumeens and their proceedings having been reported to the Governor-General in Council, he observed in his reply of the 26th June, 1795, that difficulties similar to those stated by the aumeens in Benares had been experienced in enforcing the Regulations regarding pottahs in the other three provinces. That, in many places, the ryots had omitted to take out pottahs, or objected to receive those tendered to them agreeably to the Regulations; and that, owing to the variation in the rates in the different pergunnahs and districts and other local circumstances, disputes had been occasioned, where both the proprietor and the cultivator of the lands were before satisfied with the rates of assessment that had been mutually agreed upon between them. That the rules regarding pottahs contained in paragraphs 6 to 8, for the provinces of Bengal, Behar, and Orissa, had in consequence been passed, under which, if any dispute arose between a proprietor or a farmer of land and a ryot, regarding the rates of pottahs, the latter, by application to the Court of Judicature, could always obtain a pottah at the ancient and established rates of the districts, and that where no such dispute subsisted, the interference of Government was of course unnecessary. That, from these considerations, and as the variations in the rates in the different districts, and in the quality of the lands in Benares, might render it extremely difficult for the aumeens to fix the rates and the terms of the pottahs to the satisfaction of both parties, and as there might be considerable danger of their often favouring one or other of them, the Governor-General in Council directed the aumeens to be recalled, and ordered that rules similar to those contained in paragraphs 6 to 8 should be adopted in Benares, it being presumed that the operation of them would gradually lead to the defining and fixing the rates to be paid for land in the different districts and villages where any dispute might subsist respecting them, without incurring the inconveniences liable to arise from attempting to effect this object at once by the deputation of aumeens.—Reg. LI., 1795, sec. iv.

31. In pursuance of the directions in the preceding paragraph, the pottah aumeens were recalled on the 8th of July, 1795; and with respect to the progress which they made in granting pottahs, wherever it shall appear that they have caused pottahs to be granted in deviation from the letter and spirit of the instructions under which they acted, such pottahs are to be deemed invalid, and are to be so adjudged in any court of justice; whilst, on the other hand, the operation of those in which the parties have acquiesced are to be admitted. This last-mentioned rule can be productive of no injury to either party, as all the pottahs, with the exception of those for the mootry tenures, are liable to annual renewal, in consequence of the alteration that unavoidably takes place in the annual cultivation of the ryots.—Reg. LI., 1795, sec. v.

32. On the recall of the aumeens, they were directed to make it known that it was expected and required of the talookdars, zemindars, and farmers, that they should complete the issuing of the pottahs to their ryots in the form and manner required in paragraphs 13 to 19. The proprietors and farmers of land are accordingly hereby allowed until the expiration of the Fusly year, 1204, for granting these pottahs; and after that period no engagements for rent (exclusive of the exceptions in the cases specified in paragraphs 22, 28, and 29, the usages detailed in which are to be admitted), contrary to those ordered in paragraphs 20 to 29, or such other as the collector, with the sanction of the Governor-General in Council, may prescribe, shall be held valid; and the parties prosecuting under such informal engagements shall be nonsuited with costs.—Reg. LI., 1795, sec. vi.

33.* To provide against the ryots refusing or omitting to take out or receive pottahs, although the persons from whem they are entitled to demand them be ready to grant them, in the form and on the terms that now are, or may be hereafter prescribed by this or any future Regulation, it is declared, that, if a proprietor or farmer of land shall fix up in the principal cutcherries in his estate or farm, a notification in writing, under his seal and signature, specifying that pottahs, according to the form prescribed in paragraph 19, or such other form as the collector, with the sanction of the Governor-General in Council, shall have approved and at the established rates, will be immediately granted to all ryots who may apply for them, and stating where, and when, and by whom the pottahs will be delivered, the notification shall be considered as a legal tender of a pottah, and the proprietor of land, or the farmer, shall be deemed to have complied with the order; and the persons so tendering pottahs shall be entitled to recover the rents due to them from such ryots as fully and effectually, to all intents and purposes, as if there existed written engagements between the parties.—Reg. LI., 1795, sec. vii.

34.* The approbation of the collector in respect to the pottahs is to be considered to extend to the form only; as far as regards which he is, under the orders of Government, authorized either to adhere to that contained in paragraph 19, or to adopt such other forms as the local circumstances of the district may in any part thereof render more expedient. But in all cases of deviation from the form aforesaid, the collector is to signify his approbation of the new form of pottah introduced, by superscribing it with his name and official appellation; and thereupon he is to register a copy of such form or forms in the Dewanny Adawlut of the city or zillah within the jurisdiction of which such pottahs are to be issued, and to cause a copy thereof to be deposited

in each of the principal cutcherries of the estate, or farm, or talooka, in which such pottahs are to be granted —Reg LI., 1795, sec. viii.

35.* If a dispute shall arise between the ryots and the persons from whom they may be entitled to demand pottahs, regarding the rates of the pottahs (whether the rent be payable in money or kind), it shall be determined in the Dewanny Adawlut of the city or zillah in the jurisdiction of which the lands may be situated, according to the rules established in the pergunnah, or tuppeh, or talooka, for lands of the same description and quality, and for the same caste of cultivators, as those respecting which the dispute may arise.—Reg. LI., 1795, sec. ix.

* Note —Paragraphs 33 to 35 are adaptations to Benares, of secs v to vii, Reg IV, 1794, the original rules have been modified, and partly rescinded, by sec iii., Reg V., 1812, but the rules in this Regulation have not been specifically altered.

36 The rules in the preceding paragraph are to be considered applicable not only to the pottahs which the ryots are entitled to demand in the first instance, but also to the renewal of pottahs which may expire or become cancelled; and it is declared that no proprietor or farmer of land, nor any other person, shall require ryots whose pottahs may expire or become cancelled, to take out new pottahs at higher rates than the established rates of the pergunnah for lands of the same quality and description, due consideration being had, as far as may be required by the custom of the district, to the alteration of the species of culture and the caste of the cultivator. Under this rule, khoodkasht or chupperbund ryots will be entitled to have their pottahs renewed at the established rates, upon making application for that purpose to the person by whom the pottahs are to be granted, as are also paykasht ryots, provided the proprietor or farmer chooses to permit them to continue to cultivate the land, which they have the option to do or not, as they may think proper, on the expiration of all paykasht leases, whereas khoodkasht ryots cannot be dispossessed as long as they continue to pay the stipulated rent.—Reg. LI., 1795, sec. x.

Note —See further rules commencing with paragraph 57

## CEDED AND CONQUERED PROVINCES.

### *Under-Tenures, Pottahs.*

37. Zemindars, or other proprietors of land, may grant leases, or fix the rent of any land tenure, for any period not exceeding the terms of their own respective engagements with Government. Provided always, that in case any lease shall be granted, or the rent of the land be fixed for any longer period, the lease or engagement fixing the rent shall be null and void only for the excess beyond such terms respectively.—Act XVI., 1842.

38. Every zemindar, or other actual proprietor of land or farmer of land, who may have entered into engagements with Government for the public revenue of his zemindary, or other estate or farm, shall be at liberty to let the lands of his zemindary, or other estate or farm, under the restrictions prescribed by the Regulations, in whatever manner he shall think proper, consistently with the rights of the dependent talookdars, ryots, or other descriptions of under-tenants and cultivators of the soil; but every engagement contracted with dependent talookdars, under-renters, tenants, and ryots, or tenants of whatever denomination, shall be specific as to the amount and conditions of it; and all sums received by any actual proprietor of land, or any farmer of land, of whatever description, over and above what is specified in the engagements of the persons paying the same, shall be considered as extorted, and be repaid with a penalty of double the amount.—Reg. XXX., 1803, sec. ii.

39. No person contracting with a zemindar, independent talookdar, or other actual proprietor or farmer of land, or employed by him in the management of the collections, shall be authorized to take charge of the lands or collections, without an aumilnamah or written commission signed by such zemindar, independent talookdar, or other actual proprietor or farmer of land.—Reg. XXX., 1803, sec. iii.

40. The impositions upon the ryots, under the denomination of abwaub, mhatoot, and other appellations, from their number and uncertainty, being intricate to adjust and a source of oppression to the ryots, all proprietors and farmers of land were required by the proclamation published on the 14th of July, 1802, by the Honourable the late Lieutenant-Governor and Board of Commissioners, in the ceded provinces, to consolidate the whole of the authorized abwaubs with the assul jumma, and to grant pottahs to their under-renters and ryots for a specific sum. As a sufficient period of time will have elapsed, during the second triennial settlement of the land revenue in the ceded provinces (which will expire with the Fusly year 1215), to enable the proprietors and farmers of land to complete the adjustment and delivery of pottahs for the whole of their lands in the mode prescribed, the expiration of the Fusly year 1215 is hereby declared to be the period fixed for the general delivery of pottahs, as hereafter specified.—Reg. XXX., 1803, sec. iv.

41. No actual proprietor of land, or dependent talookdar, or farmer, or tenant of land, of whatever description, shall impose any new abwaub or mhatoot upon the ryots, under-tenants, or cultivators, under any pretence whatever. Every exaction of this nature shall be punished by a penalty equal to three times the amount imposed; and if, at any future period, it be discovered that new abwaub or mhatoot have been imposed, the person imposing and receiving the same shall be liable to this penalty for the entire period of such impositions.—Reg. XXX., 1803, sec. v.

42. It is expected that in time the proprietors of land, dependent talookdars, and farmers of land, and the ryots, will find it for their mutual advantage to enter into agreements, in every instance, for a specific sum, for a certain quantity of land, leaving it to the option of the latter to cultivate whatever species of produce may appear to them likely to yield the largest profit. Where, however, it may be the established custom to vary the pottah rent for lands according to the articles produced thereon, and the actual proprietors of land, dependent talookdars, or farmers of land, and ryots, in such places, shall prefer an adherence to this custom, the engagements entered into between them shall specify the quantity of land, species of produce, rate of rent, and amount thereof, with the term of the lease, and a stipulation that, in the event of the species of produce being changed, a new engagement shall be executed for the remaining term of the first lease, or for a longer period if agreed on; and in the event of any new species being cultivated, a new engagement, with the like specification and clause, shall be executed accordingly.—Reg. XXX., 1803, sec. vi.

43. The rents to be paid by the ryots, by whatever rule or custom they shall be regulated, shall be specifically stated in the pottah, which, in every possible case, shall contain the exact sum to be paid by them.—Reg. XXX., 1803, sec. vii., cl. 1.

44. In cases where the rate only can be specified, such as where the rents are adjusted upon a measurement of the lands after cultivation, or on a survey of the crop, or where they are made payable in kind, the rate and terms of payment, and proportion of the crop to be delivered, with every condition, shall be clearly specified.—Reg. XXX., 1803, sec. vii., cl. 2.

45. If a dispute shall arise between the ryots, or other under-tenants, and the persons from whom they may be entitled to demand pottahs, regarding the rates of the pottahs (whether the rent be payable in money or kind), it shall be determined in the Court of Adawlut of the zillah in which the lands may be situated, according to the rates established in the pergunnah for lands of the same description and quality as those respecting which the dispute may arise, or according to the legal and established rights of the parties, whether the same be ascertainable by written engagements or defined by the laws and regulations, or defined upon general or local usage, which may be proved to have existed from time immemorial, these rules not being meant to define or limit the actual rights of any description of landholders or tenants, which can be properly ascertained and determined by judicial investigation only.—Reg. XXX., 1803, sec. ix.

46. The rules in the preceding paragraph shall be considered applicable, not only to the pottahs which the ryots and other under-tenants are entitled to demand in the first instance, under the proclamation published by the late provisional Government in the ceded provinces, dated the 14th July, 1802, under the Eleventh and Twelfth Clauses of Section LIII., Regulation XXVII., 1803 ("SETTLEMENT," paragraph 181), and under these rules, but also to the renewal of pottahs or leases which may expire or become cancelled under paragraphs 49 to 56.—Reg. XXX., 1803, sec. x.

47. A ryot, when his rent has been ascertained and settled, may demand a pottah from the actual proprietor of land, dependent talookdar, or farmer, of whom he holds his lands, or from the person acting for him; and any refusal to deliver the pottahs, upon being proved in the Court of Adawlut of the zillah, shall be punished by the Court, by a fine proportioned to the expense and trouble of the ryot in consequence of such refusal. Actual proprietors of land, dependent talookdars, and farmers, are also required to cause a pottah for the adjusted rent to be prepared and tendered to the ryot; either granting such pottah themselves or intrusting their agent to grant the same. No farmer, however, shall grant a pottah extending beyond the period of his own lease; nor shall any agent grant a pottah without authority from the proprietor or dependent talookdar, or the manager of disqualified proprietors.—Reg. XXX., 1803, sec. xi.

48. Nothing herein contained shall be construed to authorize any zemindar, or other actual proprietor of land, or any farmer of land, or any other person whatever, to demand an increase of rent from any mocurrerydar, istimrardar, or other description of under-tenant of land, who, at the period of the cession of the Nawaub Vizier to the English East-India Company, on the 10th of November, 1801, shall have been entitled to hold his tenure at a fixed annual rent, and shall have actually held the same at a fixed invariable amount, for twelve complete years before that period. On the contrary, any such under-tenants, provided they shall clearly establish that, by the conditions of their tenures, they were not liable to any increase of rent, and that they actually paid a fixed invariable annual rent during the above period, are hereby declared exempt from all enhancement of their fixed rent by any proprietor or farmer of land, or by any officer of

Government, during the continuance of their tenures, according to the terms and conditions thereof.—Reg. XXX., 1803, sec. xii.

49. Zemindars, independent talookdars, or other actual proprietors of land with whom a permanent settlement shall be concluded, shall not be restricted from cancelling engagements into which they may have entered with any dependant talookdar at any time during such engagements, or from granting a new lease to such dependant talookdar; provided the parties concerned shall be mutually desirous of cancelling the former lease and of entering into a new one for a term, and shall voluntarily consent to the same; and provided further, that the transaction shall not be founded in collusive or fraudulent motives, intended to affect the rights or interests of Government or of any person or persons. Whenever it shall appear that a former lease has been cancelled, and that a new lease has been granted before the commencement of the last year of the former lease, without the mutual consent of the parties concerned, or that the parties had been influenced by collusive or fraudulent motives in entering into new engagements of the above nature, such engagements are declared to be null and void, and the former engagements shall be restored, subject to the operation of the Regulations relating to them.—Reg. XLVII., 1803, sec. ii., cl. 3.

50. Where a division of a joint estate shall be made at the request of the proprietors, or pursuant to the decree of a court of justice, the fixed public revenue assessed upon the whole estate shall be apportioned on the several shares, agreeably to the principles prescribed in Section XXXVII., Regulation XXV., 1803 ("SETTLEMENT," paragraph 190), without regard to any engagements which may subsist between the proprietors and their dependant talookdars, under-farmers, ryots, or other under-tenants of whatever description. But the sharers shall not demand from the dependant talookdars, under-farmers, or ryots, or other under-renters, in their respective shares, any sum beyond the amount specified in the engagement, lease, or pottah, which may have been entered into between them and the proprietors jointly, previously to the division of the estate, provided that such engagement, lease, or pottah, be not repugnant to the rules prescribed in the preceding paragraph, and such dependant talookdars, under-farmers, ryots, or other under-renters, shall duly perform their part of it; but it shall remain in full force (excepting in the event of the lands being disposed of at public sale for the discharge of arrears of the public assessment) until the term of it shall have expired.—Reg. XLVII., 1833, sec. iii.; Reg. XIV., 1812, sec. iv.

51. If the whole or a portion of any estate shall be transferred by public sale (excepting it be so disposed of for the discharge of arrears of the public revenue) or by private sale, gift, or otherwise, or shall devolve to any person upon the death of the former proprietor, according to the Hindoo or Mahomedan law of inheritance, the person or persons to whom the lands shall be so transferred or may so devolve shall not demand from the dependant talookdars, under-farmers, ryots, or other under-tenant, in the lands transferred, any sum beyond the amount specified in the lease, pottah, or other engagements, which may have been entered into between them and the former proprietor, previously to the transfer or devolution; provided that such engagement be not repugnant to the rules prescribed, and that such dependant talookdars, farmers, ryots, or other under-tenants, duly perform their part of it; but it shall remain in full force until the term of it shall have expired.—Reg. XLVII., 1803, sec. iv.; Reg. XIV., 1812, sec. iv.

NOTE.—The two preceding paragraphs are extensions to the Ceded Provinces of secs. iii. and iv., Reg. XL., 1793, which original enactments were rescinded by sec. iii., Reg. XVIII., 1812.

52. Whenever the whole or a portion of the lands of any zemindar, independant talookdar, or other actual proprietor of land, shall be *disposed of at public sale for the discharge of arrears of the public assessment*, all engagements which such proprietor shall have contracted with dependant talookdars or other dependant landholders, whose talooks or tenures may be situated in the lands sold, as also all leases to under-farmers and pottahs to ryots, for the cultivation of the whole or any part of such lands (with the exception of the pottahs and leases specified in paragraph 55), shall stand cancelled from the day of *sale*, provided the *public sale for arrears of assessment* shall have taken place before the expiration of the second month of the current Fusly year, or from the commencement of the ensuing year, in case such *public sale* shall have taken place at any time after the second month of the current year; and the purchaser or purchasers of the lands, in all such cases, shall be at liberty to collect from such dependant talookdars or other dependant landholders, and from the ryots or cultivators of the lands let in farm and the lands not farmed, whatever the former proprietor would have been entitled to demand, according to the established usages and rates of the pergunnah or district in which such lands shall be situated, had the engagements so cancelled never existed; provided, however, that all dependant talookdars or other dependant landholders, and all ryots or cultivators of land, whose leases and pottahs may become cancelled by a *public sale, on account of arrears of assessment*, under this paragraph, shall be entitled to receive and to demand from the purchaser new pottahs, in conformity to the tenth and eleventh articles of the proclamation published by the Honourable the late Lieutenant-Governor and the Board of Commissioners in the ceded provinces, under date the 14th of July, 1802, with the Eleventh and Twelfth Clauses of Section LIII., Regulation XXXVII., 1803 ("SETTLEMENT,"

paragraph 181), and under the rules prescribed in paragraphs 38 to 48, or any other rule which may be hereafter passed, for the protection and welfare of dependant talookdars, ryots, and other cultivators of the soil, in pursuance of the First Clause of Section XXXV., Regulation XXV., 1803. ("SETTLEMENT," paragraph 188).—Reg. XLVII., 1803, sec. v.

NOTE.—See paragraphs 64, 65.

53. Provision is made in paragraph 48, for preventing any increase of assessment being demanded from any mocurrerydar, istimrardar, or other description of under-tenant of land, who, at the period of the cession of the Nawaub Vizier to the English East-India Company on the 10th of November, 1801, shall have been entitled to hold his tenure at a fixed annual rent, and shall have actually held the same at a fixed invariable amount for twelve complete years before that period. It is accordingly hereby declared, conformably to the above provision, that no zemindar, or other actual proprietor of land, or farmer of land, or any other person whatever, shall demand an increase of rent from any dependant talookdar, or other description of under-tenant of land dependant on him, although he should himself be subject to the payment of an increase of jumma to Government, excepting upon proof that he is entitled so to do, either by the special custom of the district or by the conditions under which the under-tenant holds his tenure; or that the under-tenant, by receiving abatements from his jumma, has subjected himself to the payment of the increase demanded, and that the lands are capable of affording it.—Reg. XLVII., 1803, sec. vi., cl. 1.

54. If, in any instance, it be proved that a zemindar, or other actual proprietor of land or farmer of land, has exacted more from an under-tenant than he is entitled to, the Court shall adjudge him to pay a penalty of double the amount of such exaction, with all costs of suit to the party injured.—Reg. XLVII., 1803, sec. vi., cl. 2.

55. Nothing herein contained shall be construed to prohibit any zemindar, independent talookdar, or other actual proprietor of land, selling, giving, or otherwise disposing of any part of his lands as a dependant talook, under the notification contained in Section XXXVII., Regulation XXV., 1803 ("SETTLEMENT," paragraph 190); but such transfer will not be allowed, in any case, to affect the rights or claims of Government.—Reg. XLVII., 1803. sec. vii.

56. Nor to prohibit actual proprietors of land granting, without the sanction of Government or its officers, to any person not being a European who is not a British subject, a lease or pottah for ground for any term of years, or in perpetuity, for the erection of dwelling-houses or buildings for carrying on manufactures, or for other purposes, and for offices for such houses or buildings, or for gardens.—Reg. XLVII., 1803, sec. viii.; Act IV., 1837.

NOTE.—See further rules commencing with paragraph 60.

RULES IN FORCE IN THE LOWER PROVINCES AND BENARES.

57. As instances may occur wherein a sale for arrears of revenue may take place after the second month of the year, and when the proprietor, antecedent to the attachment of his lands *for sale*, may have granted leases for the current year to farmers, ryots, or other tenants, or may otherwise have concluded a settlement with his under-renters for the current year, the Governor-General in Council, with a view to obviate any hardship which such under-renters or tenants might sustain from the immediate operation of paragraph 2, and to promote the general encouragement of agriculture, hereby enacts, that in such cases the operation of the rule above mentioned, whereby on a *public sale* of lands *for the discharge of arrears of the public assessment*, the engagements, pottahs, and leases of the late proprietor (with certain exception) are cancelled from the day of *sale*, shall be suspended till the close of the Bengal, Fusly, or Willaity, year in which the sale may have taken place; and the purchaser, during such period, shall not be entitled to demand from any under-renter or tenant, of whatever denomination, more than the late incumbent could have legally demanded. Provided, however, that this suspension be not considered applicable to any engagements, pottahs, or leases, evidently collusive; nor in any case, unless the *sale* shall have taken place after the second month of the year, according to the era current in the province wherein the lands may be situated.—Reg. I., 1801, sec. ix.

NOTE.—The foregoing rule is applicable to Benares, under the provision in sec. xv., Reg. I., 1801, but has not been re-enacted for the Ceded Provinces.

58. Proprietors of land are competent to grant leases for any period, even to perpetuity, and at any rent which they may deem conducive to their interests. Provided, however, that nothing herein contained shall be construed to empower persons holding a restricted interest in estates, whether for life or for other limited period, or subject to control or restriction in the use or disposal of the property, to grant leases extending beyond the term of their own interest in the property, or exceeding their power or authority over it.—Reg. V., 1812, sec. ii.; and Reg. XVIII., 1812, sec. ii.

59. When a division of a joint estate shall be made on the application of the proprietors, or pursuant to the decree of a Court of justice, the fixed public revenue assessed upon the whole estate shall be apportioned on the several shares agreeably to the principles prescribed in Section X., Regulation I., 1793; and Section VII., Regulation XXVII., 1795 ("SETTLEMENT," paragraphs 10 and 145), without regard to any engagements that may subsist between the proprietors and their dependant talookdars (excepting the dependant talookdars described in paragraph 4), under-farmers, or ryots. But all leases made in conformity to paragraphs 61 and 62, shall remain in full force, notwithstanding the division of a joint estate among the sharers, or the sale of the whole or a portion of any estate in satisfaction of a decree of Court, or the devolving of the same by inheritance, or the private transfer thereof by sale, gift, or otherwise.—Reg. XVIII., 1812, sec. iii.

GENERAL RULES.

60. It being a frequent practice with the under-tenants to lodge unfounded complaints in the Foujdary Adawlut against persons attaching their property, as well as against the whole of the officers employed in collecting their rents, and likewise to cause their being summoned as witnesses in causes with the merits and circumstances of which they are totally unacquainted, for the sole purpose of creating embarrassment and delay in the collection of the rents, the Courts of Justice are required at all times to discourage and punish such culpable practices, as far as the powers vested in them by the Regulations may admit. Section X. of Regulation IX., 1793 ("MAGISTRATES," paragraph 49), is to be strictly enforced in all cases of litigious and unfounded complaints, of the nature herein referred to, before the magistrate; and in instances of the zemindary officers or others employed in the collections being improperly summoned as witnesses in the Civil Courts, the party who summoned them should be compelled, under Section VI., Regulation IV., 1793 ("PROCEDURE ON THE TRIAL OF ORIGINAL SUITS," paragraphs 10, 75, and 76), to make them such allowance for their expenses as may be sufficient for their full indemnification. It is further hereby declared, that if any person shall wantonly, and without good cause, be the means of summoning to the Courts of Justice, civil or criminal, the principal officer, or any officer engaged in collecting the rents of any zemindar, talookdar, or other landholder or farmer of land, and a loss of rent, or other evident damage, shall be sustained by the landholder or farmer, in consequence of such wanton and unnecessary summons, an action shall lie against the party who caused the summons for such loss or damage, and on proof thereof in the Dewanny Adawlut, or before a moonsiff, sudder ameen, or principal sudder ameen, if the case be cognizable by them, the party injured shall be entitled to recover the amount with all costs of suit.—Reg. VII., 1799, sec. xii.; Reg. V., 1800, sec. xii.; Reg. XXIII., 1803, sec. xxxviii.

61. In all instances, the Courts of Justice will determine the rights of every description of landholder and tenant when regularly brought before them, whether the same be ascertainable by written engagements, or defined by the laws and Regulations, or depend upon general or local usage which may be proved to have existed from time immemorial; but it is hereby declared, that no part of the existing Regulations was meant to deprive the zemindars and other landholders of the power of summoning, and if necessary, compelling the attendance of their tenants for the adjustment of their rents, or for any other just purpose, or of measuring any land within their respective estates which may be liable to measurement, under the conditions upon which such land may have been leased or held. For the just exercise of such rights and powers, the landholders are not required to make any previous application to the Courts of Justice; and any person opposing them therein will, on proof in the Dewanny Adawlut, be liable to full damages and all costs, besides being subject, for any breach of the peace, to prosecution and punishment in the Criminal Courts. But the landholders, their agents and representatives, will be held answerable for any abuse or unjust exercise of the powers hereby declared to be vested in them, and on proof thereof by the party aggrieved in the Dewanny Adawlut, will be liable to full costs and damages, besides a fine to Government if the case shall appear to deserve it.* The execution of specific engagements and delivery of receipts for payments, in all instances, will tend most to the security of the landholders and their tenants in removing all doubt of the exact terms of agreement between them, or of the amount paid and due; and the provisions in Regulation VIII., 1793, for this purpose, are to be pointed out to them by the Courts of Justice as well as by the collectors, on every proper occasion, as their mutual safeguard against all undue demands on the one side and evasions on the other, which the rules in that Regulation were expressly enacted to prevent. As a further security to the zemindars in maintaining their rights over the dependant talookdars continued under them, the latter are hereby required to register in the sudder cutcherry of the zemindary to which their talooks may be attached, all transfers of such talooks, or portions of them, by sale, gift, or otherwise, as well as all successions thereto, and divisions among heirs in cases of inheritance; and whenever any distribution of the jumma of a dependant talook may become necessary on a division thereof, the written consent of the zemindar to whom such rent

may be payable is to be previously obtained, without which no distribution of a talookdary jumma will be valid, or exonerate the entire talook from its responsibility to the zemindar. Moreover, the zemindars who, by Section XLVIII. of Regulation VIII., 1793 ("SETTLEMENT," paragraph 56), were directed to deliver to the collectors a record of the engagements entered into between them and their dependant talookdars at the period of the decennial settlement, specifying the names of the talookdars, their talooks, and the jumma of each, are to deliver a similar record annually, or whenever it may be required, including any alterations which have been registered in their respective cutcherries under this rule.—Reg. VII., 1799, sec. xv., cl. 8; Reg. V., 1800, sec. xiv., cl. 8; Reg. XXVIII., 1803, sec. xxxii., cl. 8. (*NOTE.—*The part following the mark* (*) *is omitted in the Ceded Provinces rule*).

62. By Section VI., Regulation XIV., 1793 ("REALIZATION OF REVENUE," paragraph 57), it is provided, that in cases of attachment, the aumeen shall collect according to the engagements subsisting between the *defaulter* and his under-tenants; but this is not to be considered applicable to engagements evidently collusive, which may have been contracted in expectation of the attachment, with a view to prevent the officers of Government from receiving the just rents during the continuance of it. In such cases, the aumeen is to collect according to the established rates and usages of the pergunnah, as he is directed to do in cases where no engagement exists between the defaulter and his under-tenants. It is further hereby declared, that after the promulgation of this Regulation, no anticipation of the rent will be admitted in cases of attachment. The landholders and farmers are forbidden to demand or receive, and the ryots and other under-tenants are forbidden to pay any part of the rents receivable by the former and payable by the latter before the stipulated or usual period of payment, according to the kistbundy or other engagement, or established local usage; and no person hereafter making anticipated payments against this prohibition, or producing receipts for such, whether collusive or otherwise, shall be entitled to credit for the amount from the officers of Government who may attach the lands or farm, or from the landholder or farmer making the attachment, if it be made for arrears due from an under-tenant under the provisions contained in this Regulation. Nor shall credit be allowed for any payment made to a defaulter after proclamation of the attachment of his estate or farm, until further proclamation be made that such attachment has been withdrawn; unless it can be clearly shown that such proclamation, which is to be made as public as possible throughout the attached lands immediately on the attachment's taking place was, notwithstanding, unknown to the party making payment to the defaulter at the time when such payment may have been made. Provided, however, that nothing herein contained shall be understood to exonerate the *defaulter* from crediting to his under-tenants, or otherwise accounting for, all sums received by him, whether in anticipation of the rents or subsequent to the attachment of his estate or farm, the above restrictions having reference to the attachment only.—Reg. VII., 1799, sec. xxiii., cl. 3; Reg. V., 1800, sec. xxiv.; Reg. XXVII., 1803, sec. xv., cl. 3.

63. The proprietors of land shall henceforward be considered competent to grant leases to their dependant talookdars, under-farmers, and ryots, and to receive correspondent engagements for the payment of rent from each of those classes, or any other classes of tenants, according to such form as the contracting parties may deem most convenient and most conducive to their respective interests; provided, however, that nothing herein contained shall be construed to sanction or legalize the imposition of arbitrary or indefinite cesses, whether under the denomination of abwaub, muthote, or any other denomination. All stipulations or reservations of that nature shall be adjudged by the Courts of Judicature to be null and void: but the Courts shall, notwithstanding, maintain and give effect to the definite clauses of the engagements contracted between the parties, or in other words, enforce payment of such sums as may have been specifically agreed upon between them.—Reg. V., 1812, sec. iii.

64. No person deputed to attach lands on the part of Government shall be deemed entitled to annul existing leases within the year in which the attachment may have taken place, on the ground that such leases were evidently collusive, without a decision to that effect in a Court of Judicature; the case to be tried as a summary suit.—Reg. V., 1812, sec. iv.

65. By paragraphs 5, 9, and 52, it is provided, that in cases in which leases may be cancelled on the occasion of public sales made for the recovery of arrears of assessment, the purchaser shall be entitled to collect, during the year in which the sale took place, whatever the former proprietor would have been entitled to receive, "according to the established usages and rates of the pergunnah or district in which such lands may be situated." There being, however, reason to believe that the pergunnah rates are in many instances become very uncertain, the following rules shall be observed on all occasions of that nature:—Reg. V., 1812, sec. v.

66. If any known established pergunnah rates shall exist, the same shall serve to determine the amount of the rent which should be received by persons deputed to attach the lands on the part of Government, *or by the purchasers at the public sales.*—Reg. V., 1812, sec. vi.

67. In cases in which no established rates of the pergunnah or local division of the country

may be known, pottahs shall be granted, and the collections made, according to the rate payable for land of a similar description in the places adjacent; but if the leases and pottahs of the tenants of an estate generally, which may consist of an entire village or other local division, be liable to be cancelled under the rules above noticed, new pottahs shall be granted, and the collections made at rates not exceeding the highest rate paid for the same land in any one year within the period of the three last years antecedent to the period at which the leases may be cancelled.—Reg. V., 1812, sec. vii.

68. In the case of a dependent talookdar, if the rent of the lands be computed according to the rates payable by ryots or cultivators for land of a similar quality and description, a deduction shall be allowed from the gross rent in the adjustment of the jumma of such dependent talook, at the rate of ten per cent. for the talookdar's profit or income, over and above a reasonable allowance for charges of collection, according to the extent of the talook.—Reg. V., 1812, sec. viii.

69. By the former and present Regulations, persons purchasing land at the public sales are competent under certain restrictions to annul engagements contracted between the late proprietor of the lands and his under-tenants: but it is hereby declared, that no cultivator or tenant of land shall be liable to pay an enhanced rent, though subject to enhancement under subsisting Regulations, unless written engagements for such enhanced rent have been entered into by the parties, or a formal written notice have been served on such cultivator or tenant at the season of cultivation, viz., on or before the month of Jeth, notifying the specific rent, under the landholder's right of enhancing it, to which he will be subject for the ensuing Fusly or for the current Bengal year. —Reg. V., 1812, sec. ix.

70. Unless such notification be duly served, no greater rent shall be exigible by process of distress or confinement of persons, nor recoverable by suit, than the cultivator or tenant was bound to pay under his previous engagements: and if more be levied from him, he shall be entitled to a refund of the excess with damages, on proof of the circumstances before the collector.* In all practicable cases, the required notification shall be served personally on the tenant; but if he shall abscond or conceal himself, so that it cannot be served personally upon him, it shall be affixed at his usual place of residence: which latter process shall, in such case, be deemed and taken to be a sufficient service of the notification in question.—Reg. V., 1812, sec. x.

* NOTE.—By secs. ii. and iii., Reg. VIII., 1831, the cognizance of summary suits for arrears or exactions of rent is transferred to the collectors, who are to try them under Regs. XIV., 1824, and VIII., 1831. From their decisions, the only appeal is by regular suit, which, as well as original suits instituted in preference to summary proceedings, as authorized by sec. iv., Reg. II., 1821, are cognizable by the Courts. See "REALIZATION OF RENT," paragraphs 75 to 104.

71. If the ryot or tenant upon whom the notice directed in the two preceding paragraphs is directed to be served, shall have no place of usual residence in the zillah where the land to which such notice or demand has reference is situate, the mode of serving such notice shall be by affixing it at the usual cutcherry of such land, or other conspicuous place thereon, or at the village chouree choupal, or other conspicuous place in the village.—Act VIII., 1848.

72. The provisions contained in the preceding rules shall be considered equally applicable to sequestrators on the part of Government, to managers on the part of the Court of Wards, and to farmers, whenever estates, or portions of estates, may be let to farm under the authority of the Board of Revenue.—Reg. V., 1812, sec. xi.

### TENURE OF LAND BY EUROPEAN BRITISH SUBJECTS.

73. It shall be lawful for any subject of her Majesty to acquire and hold in perpetuity, or for any term of years, property in land, or in any emoluments issuing out of land, in any part of the territories of the East-India Company.—Act IV., 1837, sec. i.

74. All rules which prescribe the manner in which such property as is aforesaid may now be acquired and held by natives of the said territories shall extend to all persons who shall under the authority of this Act acquire or hold such property.—Act IV., 1837, sec. ii.

75. No person whatever, being the owner, holder, or farmer of any property in land, or in any emoluments issuing out of land, in any part of the said territories, whether in perpetuity or for a term, or being a local agent or manager of any such property, is, by reason of his place of birth, or by reason of his descent, exempt from any public charge or assessment, or from any duty connected with the police, or with the salt or opium revenue, or from any duty whatsoever of a public nature to which he would otherwise be subject, as the owner or holder of such property, or as a local agent or manager thereof.—Act II., 1853, sec. i.

76. For the non-payment of any such public charge or assessment, or for the breach of any such duty as aforesaid, or for any neglect or misconduct in the discharge thereof, every person, whatever may have been his place of birth, or his descent, shall be subject to the same laws, regulations, and procedure, and to the same jurisdictions as if he were a native of the said territories.—Act II., 1853, sec. ii.

# LAND REVENUE.

## PUTNEE TALOOKS.

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# LAND REVENUE.

## PUTNEE TALOOKS.

1. By the rules of the perpetual settlement, proprietors of estates paying revenue to Government, that is, the individuals answerable to Government for the revenue then assessed on the different mehauls, were declared to be entitled to make any arrangements for the leasing of their lands in talook or otherwise, that they might deem most conducive to their interests. By the rules of Regulation XLIV., 1793 ("UNDER-TENURES," paragraphs 2 to 5), however, all such arrangements were subjected to two limitations: first, that the jumma, or rent, should not be fixed for a period exceeding ten years; and secondly, that in case of a sale for Government arrears, such leases or arrangements should stand cancelled from the day of sale. The provisions of Section II., Regulation XLIV., 1793, by which the period of all fixed engagements for rent was limited to ten years, have been rescinded by Section II., Regulation V., 1812; and in Regulation XVIII. of the same year it is more distinctly declared, that zemindars are at liberty to grant talooks or other leases of their lands, fixing the rent in perpetuity at their discretion, subject, however, to the liability of being dissolved on sale of the grantor's estate for arrears of the Government revenue, in the same manner as heretofore. In practice, the grant of talooks and other leases at a rent fixed in perpetuity had been common with the zemindars of Bengal for some time before the passing of the two Regulations last mentioned; but, notwithstanding the abrogation of the rule which declared such arrangements null and void, and the abandonment of all intention or desire to have it enforced as a security to the Government revenue in the manner originally contemplated, it was omitted to declare in the rules of Regulations V. and XVIII. of 1812 ("UNDER-TENURES"), or in any other Regulations, whether tenures at the time in existence and held under covenants or engagements entered into by the parties in violation of the rule of Section II., Regulation XLIV., 1793, should, if called in question, be deemed invalid and void as heretofore. This point it has been deemed necessary to set at rest by a general declaration of the validity of any tenures that may be now in existence, notwithstanding that they may have been granted at a rent fixed in perpetuity, or for a longer term than ten years, while the rule fixing this limitation to the term of all such engagements, and declaring null and void any granted in contravention thereto, was in force. Furthermore, in the exercise of the privilege thus conceded to zemindars under direct engagements with Government, there has been created a tenure which had its origin on the estates of the Rajah of Burdwan, but has since been extended to other zemindaries, the character of which tenure is, that it is a talook created by the zemindar, to be held at a rent fixed in perpetuity by the lessee and his heirs for ever; the tenant is called upon to furnish collateral security for the rent, and for his conduct generally, or he is excused from this obligation at the zemindar's discretion; but even if the original tenant be excused, still, in case of sale for arrears, or other operation leading to the introduction of another tenant, such new incumbent has always in practice been liable to be so called upon at the option of the zemindar; by the terms also of the engagements interchanged, it is amongst other stipulations provided, that in case of an arrear occurring, the tenure may be brought to sale by the zemindar, and if the sale do not yield a sufficient amount to make good the balance of rent at the time due, the remaining property of the defaulter shall be further answerable for the demand. These tenures have usually been denominated putnee talooks, and it has been a common practice of the holders of them to underlet on precisely similar terms to other persons, who, on taking such leases, went by the name of durputnee talookdars; these again sometimes similarly underlet to seputneedars, and the conditions of all the title-deeds vary in nothing material from the original engagements executed by the first holder. In these engagements, however, it is not stipulated whether the sale thus reserved to himself by the grantor is for his own benefit, or for that of the tenant; that is, whether, in case the proceeds of sale should exceed the zemindar's demand of rent, the tenant would be entitled to such excess; neither is the manner of sale specified, nor do the usages of the country nor the Regulations of Government afford any distinct rules, by the application of which to the specific cases the defects above alluded to could be supplied, or the points of doubt and difficulty involved in the omission be brought to determination in a consistent and uniform manner. The tenures in question have extended through several zillahs of Bengal, and the mischiefs which have arisen from the want of a consistent rule of action for the guidance of the Courts of Civil Judicature in regard to them have been productive of such confusion as to demand the interference of the legislature: it has accordingly been deemed necessary to regulate and define the nature of the property given and acquired on the

creation of a putnee talook as above described, also to declare the legality of the practice of under-letting in the manner in which it has been exercised by putneedars and others, establishing at the same time such provisions as have appeared calculated to protect the under-lessee from any collusion of his immediate superior with the zemindar or other for his ruin, as well as to secure the just rights of the zemindar on the sale of any tenure under the stipulations of the original engagements entered into with him. It has further been deemed indispensable to fix the process by which the said tenures are to be brought to sale, and the form and manner of conducting such sale; and whereas the estates of zemindars under engagements with Government are liable to be brought to sale at any time for an arrear in the revenue, payable by monthly kists to Government, it has seemed just to allow any zemindar who may have granted tenures with a stipulation of the right to sell for arrears, the opportunity of availing himself of this means of realizing his dues in the middle of the year, as well as at the close, instead of only at the end of the Bengal year, as heretofore allowed by the Regulations in force; it has further been deemed equitable to extend this rule to all cases in which the right of sale may have been reserved, even though, in conformity with the Regulations heretofore in force, the stipulation for sale contained in the engagements interchanged may have restricted such sale to the case of a demand of rent remaining unpaid at the close of the Bengal year. It has been likewise deemed advisable to explain and modify some of the existing rules for the collection of rents, with a view to render them more efficacious than at present, as well as to provide against sundry means of evasion now resorted to by defaulters. The following rules have accordingly been enacted by his Excellency the Most Noble the Governor-General in Council, to take effect from the date of their promulgation throughout the several districts of the province of Bengal, including Midnapore.—Reg. VIII., 1819, sec. i.

2. It is hereby declared, that any leases or engagements for the fixing of rent now in existence, that may have been granted or concluded for a term of years, or in perpetuity, by a proprietor under engagements with Government, or other person competent to grant the same, shall be deemed good and valid tenures, according to the terms of the covenants or engagements interchanged, notwithstanding that the same may have been executed before the passing of Regulation V., 1812, and while the rule of Section II., Regulation XLIV., 1793, which limited the period for which it was lawful to grant such engagements to ten years, and declared all that might be entered into for a longer term to be null and void, was in full force and effect; and notwithstanding that the stipulations of the said leases may be in violation of the rule in question: provided, however, that nothing herein contained shall be held to exempt any tenures held under engagements from proprietors of estates paying revenue to Government, from the liability to be cancelled on sale of the said estates for arrears of the said revenue, under the rule of Section V., Regulation XLIV., 1793 ("UNDER-TENURES," paragraph 2), unless specially exempted from such liability by the rule in question, or by any other specific rule of the Regulations in force.—Reg. VIII., 1819, sec. ii.

3. The tenures known by the name of putnee talooks, as described in the preamble, shall be deemed to be valid tenures in perpetuity, according to the terms of the engagements under which they are held. They are heritable by their conditions; and it is hereby further declared, that they are capable of being transferred by sale, gift, or otherwise, at the discretion of the holder, as well as answerable for his personal debts, and subject to the process of the Courts of Judicature, in the same manner as other real property.—Reg. VIII., 1819, sec. iii., cl. 1.

4. Putnee talookdars are hereby declared to possess the right of letting out the lands composing their talooks in any manner they may deem most conducive to their interest, and any engagements so entered into by such talookdars with others shall be legal and binding between the parties to the same, their heirs and assignees: provided, however, that no such engagements shall operate to the prejudice of the right of the zemindar to hold the superior tenure, answerable for any arrear of his rent, in the state in which he granted it, and free of all incumbrance resulting from the act of his tenant.—Reg. VIII., 1819, sec. iii., cl. 2.

5. In case of an arrear occurring upon any tenure of the description alluded to in paragraph 3, it shall not be liable to be cancelled for the same, under the rule contained in the seventh clause of Section XV., Regulation VII., 1799 ("REALIZATION OF RENT," paragraph 68), for leases conveying a limited interest in the land; but the tenure shall be brought to sale by public auction, and the holder of the tenure will be entitled to any excess in the proceeds of such sale, beyond the amount of the arrear of rent due; subject, however, to the provisions contained in paragraphs 32 to 39.—Reg. VIII., 1819, sec. iii., cl. 3.

6. If the holder of a putnee talook shall have underlet in such manner as to have conveyed a similar interest to that enjoyed by himself, as explained in the preamble, the holder of such a tenure shall be deemed to have acquired all the rights and immunities declared in paragraphs 3 to 5 to attach to putnee talooks, in so far as concerns the grantor of such under-tenure. The same construction shall also hold in the case of putnee talooks of the third or fourth degree.—Reg. VIII., 1819, sec. iv.

7. The right of alienation having been declared to vest in the holder of a putnee talook, it shall

not be competent to the zemindar or other superior, to refuse to register, and otherwise to give effect to such alienations, by discharging the party transferring his interest from personal responsibility, and by accepting the engagements of the transferee. In conformity, however, with established usage, the zemindar or other superior shall be entitled to exact a fee upon every such alienation, and the rate of the said fee is hereby fixed at two per cent. on the jumma or annual rent of the interest transferred, until the same shall amount to one hundred rupees, which sum shall be the maximum of any fee to be exacted on this account. The zemindar shall also be entitled to demand substantial security from the transferee or purchaser, to the amount of half the jumma or yearly rent, payable to him from the tenure transferred; the condition of furnishing such security on requisition being understood to be one of the original liabilities of the tenure. The above rules shall apply equally to the case of a sale made in execution of a decree or judgment of court, as to all other alienations, but it shall not apply to the case of sale for an arrear in the rent due to the zemindar or other superior, under the rules hereinafter contained. The purchaser at such a sale shall be entitled to have his name registered, and to obtain possession without fee, though, of course, liable to be called on to give security under the conditions of the tenure purchased.—Reg. VIII., 1819, sec. v.

8. It shall be competent to the zemindar or other superior to refuse the registry of any transfer until the fee above stipulated be paid, and until substantial security to the amount specified be tendered and accepted: provided, however, that if the security tendered by any purchaser or transferee should not be approved by the zemindar, and the party tendering it shall be dissatisfied with such rejection, he shall be competent to appeal therefrom by petition or common motion in the Civil Court of the district, which authority, if satisfied of the sufficiency of the security tendered, shall issue an injunction on the zemindar to accept it, and give effect to the transfer without delay. It is hereby provided, that the rules of this and of the preceding paragraph shall not be held to apply to transfers of any fractional portion of a putnee talook, nor to any alienation other than of the entire interest, for no apportionment of the zemindar's reserved rent can be allowed to stand good, unless made under his special sanction.—Reg. VIII., 1819, sec. vi.

9. In case of the sale of a putnee tenure in execution of a judgment of Court, if the purchaser do not within the period of one month from the sale conform to the rules of paragraph 7, in order to obtain the transfer of his tenure by the superior to whom the rent fixed upon it is payable, the zemindar or other superior shall be entitled, of his own authority, to send a suzawul to attach and hold possession of the tenure, until the forms prescribed be observed. In case, also, of the sale of a putnee tenure for arrears of the rent due upon it, under these rules, if security be required by the zemindar, and the purchaser fail to furnish the same within one month of the date of sale, the zemindar shall similarly be entitled to send a suzawul to attach and hold possession of the interest which may have passed on the sale, to the exclusion of the purchaser, until the prescribed security be given. Attachments made under this rule shall be regarded as trusts for the benefit and at the risk of the purchasers; consequently, after deducting the rent due and the expense of attaching, any surplus that may be yielded by the collections shall be held in deposit for such purchaser: but if the collections for the time fall short of the rent, the tenure and person of the proprietor shall be liable in the same manner as if no attachment had been made, and the accounts produced by the zemindar or other superior making the attachment, shall be received as primâ facie evidence to warrant process for an arrear so accruing.—Reg. VIII., 1819, sec. vii.

10. Zemindars, that is, proprietors under direct engagements with the Government, shall be entitled to apply in the manner following for periodical sales of any tenures, upon which the right of selling or bringing to sale for an arrear of rent may have been specially reserved by stipulation in the engagements interchanged, on the creation of the tenure. The exercise of this power shall not be confined to cases in which the stipulation for sale may have been unrestricted in regard to time, but shall apply equally to tenures held under engagements stipulating merely for a sale at the end of the year, in conformity with the practice heretofore allowed by the Regulations in force.—Reg. VIII., 1819, sec. viii., cl. 1.

11. On the first day of Bysakh, that is, at the commencement of the following year from that of which the rent is due, the zemindar shall present a petition to the collector, containing a specification of any balances that may be due to him on account of the expired year, from all or any talookdars, or other holders of an interest of the nature described in the preceding paragraph. The same shall then be stuck up in some conspicuous part of the kucheree, with a notice, that if the amount claimed be not paid before the first of Jyte following, the tenures of the defaulters will on that day be sold by public sale in liquidation. Should, however, the first of Jyte fall on a Sunday or holiday, the next subsequent day, not a holiday, shall be selected instead; a similar notice shall be stuck up at the sudder kucheree of the zemindar himself, and a copy or extract of such part of the notice as may apply to the individual case shall be by him sent, to be similarly published at the kucheree, or at the principal town or village upon the land of the defaulter. The zemindar shall be exclusively answerable for the observance of the forms above prescribed, and the notice required to be sent into the mofussil shall be served by a single peon, who shall bring back the receipt of the defaulter, or of

his manager, for the same; or in the event of inability to procure this, the signatures of three substantial persons residing in the neighbourhood, in attestation of the notice having been brought and published on the spot. If it shall appear from the tenor of the receipt, or attestation in question, that the notice has been published at any time previous to the fifteenth of the month of Bysakh, it shall be a sufficient warrant for the sale to proceed upon the day appointed. In case the people of the village should object or refuse to sign their names in attestation, the peon shall go to the kucheree of the nearest moonsiff, or if there should be no moonsiff, to the nearest thannah, and there make voluntary oath or affirmation of the same having been duly published, certificate to which effect shall be signed and sealed by the said officers, and delivered to the peon.—Reg. VIII., 1819, sec. viii., cl. 2; Act XXXIII., 1850, sec. i.

12. Ten days' notice shall be given before proceeding to sale, by proclamation to be stuck up at the kucheree of the collector or independent deputy collector, and at the Zillah Court or local Adawlut within the jurisdiction of which the lands to be sold, or the greater portion of them, as the case may be, shall be situate.—Reg. I., 1820, sec. ii., cl. 2; Act. VI., 1853, secs. vi., viii.

13 On the first day of Kartick, in the middle of the year, the zemindar shall be at liberty to present a similar petition, with a statement of any balances that may be due on account of the rent of the current year, up to the end of the month of Asin, and to cause similar publication to be made of a sale of the tenures of defaulters, to take place on the first of Aughun, unless the whole of the advertised balance shall be paid before the date in question, or so much of it as shall reduce the arrear, including any intermediate demand for the month of Kartick, to less than one-fourth, or a four-anna proportion of the total demand of the zemindar, according to the kistbundee, calculated from the commencement of the year to the last day of Kartick.—Reg. VIII., 1819, sec. viii., cl. 3.

14. All sales of saleable tenures applied for under these rules shall be made in public kucheree by the collector, deputy collector, or head assistant to the collector or deputy collector, within which the lands may be situated; the land shall be sold to the highest bidder, and every one not the actual defaulter shall be free to bid, not excepting the person in satisfaction of whose demand the sale may be made, nor the under-tenants of the defaulter; fifteen per cent. of the purchase-money shall be paid immediately the lot is knocked down, and the officer conducting the sale shall be competent to refuse to accept a bid, or to knock down a lot to any bidder, unless he has assurance to his satisfaction that the amount required to be deposited is in hand for the purpose, or will be produced within two hours. If the fifteen per cent. be not paid in cash, or in notes of the Bank of Bengal, within two hours of the sale, or an equivalent amount in Government securities be not lodged, the lot shall be resold on the same day, and if the remainder of the purchase-money be not paid by noon of the eighth day, notice shall be given of resale on the following day, that is, on the ninth from the first sale, by proclaiming the same by beat of drum through the bazar of the sudder station of the zillah, after which the lot shall be resold at the appointed time at the risk of the first purchaser, who shall forfeit the advance of fifteen per cent. already made, and be further answerable for any sum in which the proceeds of the second sale may fall short of the antecedent one; such deficiency to be levied by the process for the execution of decrees of the Civil Courts. Any such forfeited deposit shall be applied to defray the expenses of the sale, and the surplus shall be forfeited to Government.—Reg. VIII., 1819, sec. ix.; Act XXV., 1850.

15. At the time of the sale, the notice previously stuck up in the kucheree shall be taken down, and the lots be called up successively in the order in which they may be found in that notice. A person shall attend on the part of the zemindar, with a particular statement of the payments made up to the day of sale, on account of the balance of each advertised lot, together with the receipt for, or certificate of, the notice directed to be published in the mofussil, nor shall any lot be put up to sale until the statement produced shall have been inspected, and the existence of a balance for the year ascertained therefrom, nor until the receipt for the notice shall have been read; the observance of which forms shall be recorded in a separate roobakaree to be held upon each lot sold. If the sale be of the description provided for in paragraph 13, the kistbundy of the defaulter shall likewise be produced, in order that it may be seen that the balance remaining unpaid exceeds a four-anna proportion of the demand up to the date of sale; nor shall the sale take place unless this be ascertained. The zemindar shall be exclusively responsible for the correctness and authenticity of the papers to be thus exhibited, nor shall the public officer making the sale be answerable in any respect, except for its fairness and publicity, and for the observance of the rules herein prescribed for his guidance.—Reg. VIII., 1819, sec. x.

16. The proceedings of the collector or deputy collector of land revenue, or head assistant to the collector or deputy collector, in the sale of putnee talooks or other saleable tenures, or in the performance of acts preparatory to or connected with the sale of such talooks, shall be subject to an appeal to the commissioner of revenue for the division, on the ground of the irrelevancy of the Regulation, as in other cases of a summary nature provided for in Section IV., Regulation VIII., 1831 ("Realization of Rent," paragraph 76). The provisions of Section XXIII., Regulation VII.,

1822 ("SETTLEMENT," paragraph 391), are declared applicable to proceedings by revenue officers under this paragraph.—Reg. VII., 1832, sec. xvi., cls. 1 and 2.

17. Any talook or saleable tenure that may be disposed of at a public sale, under these rules, for arrears of rent due on account of it, is sold free of all incumbrances that may have accrued upon it by act of the defaulting proprietor, his representatives or assignees, unless the right of making such incumbrances shall have been expressly vested in the holder by a stipulation to that effect in the written engagements under which the said talook may have been held. No transfer by sale, gift, or otherwise, no mortgage or other limited assignment, shall be permitted to bar the indefeasible right of the zemindar to hold the tenure of his creation answerable in the state in which he created it, for the rent, which is in fact his reserved property in the tenure, except the transfer or assignment should have been made with a condition to that effect, under express authority obtained from such zemindar.—Reg. VIII., 1819, sec. xi., cl. 1.

18. In like manner, on sale of a talook for arrears, all leases originating with the holder of the former tenure, if creative of a middle interest between the resident cultivators and the late proprietor, must be considered to be cancelled, except the authority to grant them should have been specially transferred; the possessors of such interests must consequently lose the right to hold possession of the land, and to collect the rents of the ryots; this having been enjoyed merely in consequence of the defaulter's assignment of a certain portion of his own interest, the whole of which was liable for the rent.—Reg. VIII., 1819, sec. xi., cl. 2.

19. Provided, nevertheless, that nothing herein contained shall be construed to entitle the purchaser of a talook, or other saleable tenure intermediate between the zemindar and actual cultivators, to eject a khodkasht ryot, or resident and hereditary cultivator, nor to cancel bonâ fide engagements made with such tenants by the late incumbent or his representative, except it be proved in a regular suit, to be brought by such purchaser for the adjustment of his rent, that a higher rate would have been demandable at the time such engagements were contracted by his predecessor.—Reg. VIII., 1819, sec. xi., cl. 3.

20. The rules of the three preceding paragraphs being declaratory of the principle to be observed on all occasions wherein saleable tenures are made responsible for the zemindar's reserved rent, will equally apply to the case of talooks heretofore sold, as to those that may be sold henceforward, if the sale shall have been fair, and the process observed in conducting it shall have been that recognized and in use in the district at the time of selling. Nothing, however, herein contained shall operate to the prejudice of any agreement, express or implied, now subsisting between the purchaser of a talook and the lessees of his predecessor. Neither shall the rule for the fall of under-tenures be considered to apply to any private transfer by a talookdar of his own interest, nor to a public sale in execution of a decree, nor to the case of a relinquishment by the talookdar in favour of the zemindar, nor to any act originating with the former holder, other than default as aforesaid; all such operations involve only a transfer of the tenure in the state in which it may be held at the time, and the new incumbent succeeds to no more than the reserved rights of the former tenant, such as they may be, and is of course subject to any restriction put upon the tenure by his act.—Reg. VIII., 1819, sec. xii.

21. With reference to the injury that may be brought upon the holder of a talook of the second degree by the operation of the preceding rules, in case the proprietor of the superior tenure purposely withholds the rent due from himself to the zemindar, after having realized his own dues from the inferior tenantry, it is deemed necessary to allow such talookdars the means of saving their tenures from the ruin that must attend such a sale, and the following rules have accordingly been enacted for this purpose.—Reg. VIII., 1819, sec. xiii., cl. 1.

22. Whenever the tenure of a talookdar of the first degree may be advertised for sale in the manner required by paragraphs 11 to 13 for arrears of rent due to the zemindar, the talookdars of the second degree, or any number of them, shall be entitled to stay the final sale, by paying to the collector the amount of balance that may be declared due by the person attending on the part of the zemindar on the day appointed for sale; in like manner they shall be entitled to lodge money antecedently, for the purpose of eventually answering any demand that may remain due on the day fixed for the sale, and should the amount lodged be sufficient, the sale shall not proceed, but after making good to the zemindar the amount of his demand, any excess shall be paid back to the person or persons who may have lodged it.—Reg. VIII., 1819, sec. xiii., cl. 2; Reg. VII., 1832, sec. xvi., cl. 1.

23. If the amount so lodged shall be rent due by the inferior talookdar to the holder of the advertised tenure, the same shall be stated at the time of making the deposit, and the amount shall be carried to the account of the tenant or tenants lodging it, and be deducted from any claim of rent that may at the time be pending, or be thereafter brought forward against him or them by the proprietor of the advertised tenure, on account of the year or months for which the notice of sale may have been published.—Reg. VIII., 1819, sec. xiii., cl. 3.

24. If the person or persons making such a deposit, in order to stay the sale of the superior tenure, shall have already paid the whole of the rent due from himself or themselves, so that the

amount lodged is an advance from private funds, and not a disbursement on account of the said rent, such deposit shall not be carried to credit in or set against future demands for rent, but shall be considered as a loan made to the proprietor of the tenure preserved from sale by such means, and the talook so preserved shall be the security to the person or persons making the advance, who shall be considered to have a lien thereupon, in the same manner as if the loan had been made upon mortgage; and he or they shall be entitled, on applying for the same, to obtain immediate possession of the tenure of the defaulter, in order to recover the amount so advanced from any profits belonging thereto. If the defaulter shall desire to recover his tenure from the hands of the person or persons who, by making the advance, may have acquired such an interest therein, and entered on possession in consequence, he shall not be entitled to do so, except upon repayment of the entire sum advanced, with interest at the rate of twelve per cent. per annum, up to the date of possession having been given as above, or upon exhibiting proof, in a regular suit to be instituted for the purpose, that the full amount so advanced, with interest, has been realized from the usufruct of the tenure.—Reg. VIII., 1819, sec. xiii., cl. 4.

25. Should the balance claimed by a zemindar on account of the rent of any under-tenure remain unpaid upon the day fixed for the sale of the tenure, the sale shall be made without reserve in the manner provided for in paragraphs 14 and 15; nor shall it be stayed or postponed on any account, unless the amount of the demand be lodged. It shall, however, be competent to any party desirous of contesting the right of the zemindar to make the sale, whether on the ground of there having been no balance due, or on any other ground, to sue the zemindar for the reversal of the same, and upon establishing a sufficient plea, to obtain a decree, with full costs and damages. The purchaser shall be made a party in such suits, and upon decree passing for reversal of the sale, the Court shall be careful to indemnify him against all loss, at the charge of the zemindar or person at whose suit the sale may have been made.—Reg. VIII., 1819, sec. xiv., cl. 1.

26. In cases also in which a talookdar may contest the zemindar's demand of any arrear, as specified in the notice advertised, such talookdar shall be competent to apply for a summary investigation, at any time within the period of notice; the zemindar shall then be called upon to furnish his kabooleat and other proofs at the shortest convenient notice, in order that the award may, if possible, be made before the day appointed for sale. Such award, if so made, will of course regulate the ulterior process; but if the case be still pending, the lot shall be called up in its turn, notwithstanding the suit; and if the zemindar or his agent in attendance insist on the demand, the sale shall be made on his responsibility, nor shall it be stayed, or the summary suit be allowed to proceed, unless the amount claimed be lodged in cash, or in Government securities, or in notes of the Bank of Bengal, by the talookdar contesting the demand; and if such deposit be not made, the alleged defaulter will have no remedy, but by a regular action for damages and for a reversal of the sale.—Reg. VIII., 1819, sec xiv., cl. 2.

27. With reference to doubts which have arisen regarding the power of the zillah and city judges to conduct the summary inquiries allowed by the preceding paragraph, since the promulgation of Regulation VIII., 1831, it is hereby further declared, that all summary investigations and awards which may have been made by them previous to the promulgation of this enactment, in conformity to the provisions of the aforesaid paragraph, shall not be impugned, on the ground that such cases should have been investigated and decided by the collectors of land revenue under the provisions of the Regulation last mentioned.—Reg. VII., 1832, sec. xvi., cl. 3.

28. So soon as the entire amount of the purchase-money shall have been paid in by the purchaser, at any sale made under these rules, such purchaser shall receive from the officers conducting the sale a certificate of such payment. The purchaser shall then proceed with the certificate in question to procure a transfer to his name in the kucheree of the zemindar, and upon furnishing security, if required, to the extent of half the jumma or annual rent, he shall receive the usual amuldustuk, or order for possession, together with the notice to the ryots and others to attend and pay their rents henceforward to him. The zemindar shall also be bound to furnish access to any papers connected with the tenure purchased, that may be forthcoming in his kucheree, and should he in any manner delay the transfer in his office, or refuse to give the orders for possession, notwithstanding that good and substantial security shall have been furnished, or tendered, on requisition, the new purchaser shall be entitled to apply direct to the officer conducting the sale, and he shall receive the orders for possession, and shall be put in possession of the lands, provided, however, that if the delay be on account of the zemindar's contesting the sufficiency of the security tendered, the rule contained in paragraph 8 shall be observed.—Reg. VIII., 1819, sec. xv., cl. 1.; Reg. VII., 1832, sec. xvi., cl. 1.

29. When the new purchaser shall proceed to take possession of the lands of his purchase, if the late incumbent himself, or the holders of tenures or assignments derived from the late incumbent, and intermediate between him and the actual cultivators, shall attempt to offer opposition, or to interfere with the collections of the new purchaser, from the lands composing his purchase, the latter shall be at liberty to apply immediately to the officer conducting the sale for the aid of the

public officers in obtaining possession of his just rights. A proclamation shall then issue, declaring, that the new incumbent having, by purchase at a sale for arrears of rent due to the zemindar, acquired the entire rights and privileges attaching to the tenure of the late talookdar, in the state in which it was originally derived by him from the zemindar, he alone will be recognized as entitled to make the zemindaree collections in the mofussil, and no payments made to any other individual will on any account be credited to the ryots, or others, in any summary suit, for rent, brought under the provisions of Section XV., Regulation VII., 1799 ("REALIZATION OF RENT"), or in any application to stay process by distraint, under the rules of Regulation V., 1812 ("REALIZATION OF RENT"), or on any other occasion whatever, when the same may be pleaded.—Reg. VIII., 1819, sec. xv., cl. 2.; Reg. VII., 1832, sec. xvi., cl. 2.

30. Should the late incumbent, or his late under-tenants, continue to oppose the entry of the new purchaser notwithstanding the issuing of such a proclamation, or should there be reason to apprehend a breach of the peace on the part of any one, the aid of the police-officers, and of all other public officers who may be at hand, and capable of affording assistance, shall be given to the new purchaser, on his presenting a written application for the same; and in the event of any affray or breach of the peace occurring, the entire responsibility shall rest with the party opposing the lawful attempt of the purchaser to assume his rights.—Reg. VIII., 1819, sec. xv., cl. 3.

31. Under-tenures held under engagements similar to those executed between the zemindar and putneedar, having been declared not to be voidable for an arrear of the rent fixed upon them in perpetuity, it will be necessary that the person to whom the said rent may be payable should (in case he be desirous of holding the tenure answerable in the manner provided for by stipulation in the deeds interchanged) proceed according to the rules of Section XV., Regulation VII., 1799 ("REALIZATION OF RENT"), and the general Regulations, to have the sale effected at the end of the year in the same manner as heretofore. But it is hereby provided, that every such sale shall be public, and be conducted by the collector, deputy collector, or head assistant to the collector or deputy collector, under these rules, as far as the same may be applicable; ten days' notice shall be given of such sales, by advertisement, to be stuck up at the kucheree of the collector.—Reg. VIII., 1819, sec. xvi.; Reg. VII., 1832, sec. xvi., cl. 1.

32. The following rules have been enacted for the disposal of the proceeds of any sale made under the preceding rules.—Reg. VIII., 1819, sec. xvii., cl. 1.

33. One per cent. shall first be deducted from the net proceeds realized, and shall be carried to the account of Government, for the purpose of meeting the expense of any extra establishments which it may be necessary to maintain, for carrying into effect the foregoing provisions. Reg. VIII., 1819, sec. xvii., cl. 2.

34. The balance on account of which the sale may have been made shall next be made good in full (with interest and all charges incurred in bringing the talook to sale) to the zemindar or other person to whom the same may be due: provided, however, that no former balances, beyond those of the current year (or of that immediately expired, if the sale be at the commencement of the following year), shall be included in the demand to be thus satisfied. Such antecedent balances, if the zemindar shall have omitted to avail himself of the process within his reach for having them satisfied at the time, will have become in fact mere personal debts of the individual talookdar, and must be recovered in the same way as other debts by a regular suit in the Court.—Reg. VIII., 1819, sec. xvii., cl. 3.

35. Any excess that may remain after satisfying the demand of the zemindar, in the manner above described, shall be held in deposit in the treasury of the collector, or assistant collector, of the district, to answer the claims of the talookdars of the second degree, or of others who, by assignment of the defaulter, may be at the time in possession of a valuable interest in the land composing the talook sold, or in any part of it.—Reg. VIII., 1819, sec. xvii., cl. 4; Reg. VII., 1832, sec. xvi., cl. 1.

36. It shall be competent to any one conceiving himself to possess such an interest, to bring forward his claim to the price he may have paid for the same, or for a just compensation for the loss sustained by him in consequence of the sale, by instituting a regular suit at any time within two months from the date of sale. If the Court shall, on investigation, consider the plaintiff's claim to be an equitable one, the Court will award to the claimant either the price he may have originally paid, or the value of the interest at the time of sale, or any other amount that may be deemed just and equitable under all the circumstances. If there be more claimants than one, payment shall not be made from the deposit, until the whole of the claims be settled; and in case the value assessed upon the whole should exceed the amount in deposit, such amount shall be divided proportionately, and the remainder stand as a personal debt against the defaulter, to be realized from him by the usual process for the execution of decrees.—Reg. VIII., 1819, sec. xvii., cl. 5.

37. Provided, however, that no talookdar of the second degree, or other possessor of an assigned interest upon the land of the tenure sold, who may be holding under a stipulation for the payment of an annual amount in the way of rent, shall be entitled to recover compensation for the loss of such tenure or assignment upon its becoming cancelled by sale of the superior talook, except after exhibiting

proof that the whole amount of the rent demandable from himself has been paid or lodged for the purpose prior to the date of sale.—Reg. VIII., 1819, sec. xvii., cl. 6.

38. Should no claims upon the purchase-money of a talook, sold as above, be brought forward by any under-tenants or assignees, within the period of two months from the date of sale, or should the amount claimed by those who may have sued not equal the entire deposit, the defaulter whose tenure may have been sold shall be at liberty to petition the collector or other officer for the amount so held in deposit, or for the excess thereof, as the case may be, and if there be no claims to afford ground of detention for the whole or any part of the deposit, the amount which is free shall be paid to his receipt. In the same manner, upon executing a decree passed in favour of any under-tenants or assignees, they shall receive certificates, declaring the amount adjudged to them out of the deposit; and upon these certificates, the amount shall be paid severally to their receipts by the collector.—Reg. VIII., 1819, sec. xvii., cl. 7; Reg. VII., 1832, sec. xvi., cl. 1.

39. It shall be competent to any party interested in a deposit to withdraw the whole or any part thereof, on substituting Government securities, bearing interest, in lieu of the money so held in deposit; such securities to be taken at the rate of discount or premium of the day, as shown by the Government Gazette last received.—Reg. VIII., 1819, sec. xvii., cl. 8.

40. After the passing of this Act [23rd August, 1850], it shall not be necessary for the zemindar to present a petition to the Civil Court for the sale of a putnee tenure, but a petition to the collector shall be sufficient.—Act XXXIII., 1850, sec. i.

41. All sales of putnee tenures before the 23rd August, 1850, which were held without presenting a petition to the Civil Court, and for the reversal of which no suit was commenced before the 4th day of April in the year 1850, shall be deemed as valid as if such petition to the Civil Court had been presented.—Act XXXIII., 1850, sec. ii.

42. Every putneedar whose tenure shall have been sold before the above date, without such petition having been presented to the Civil Court, and the sale of which is hereby declared valid, shall be entitled to recover in a suit against the zemindar, or person at whose instance the sale has been effected, or his representatives, the amount of any actual loss or damage sustained by such putneedar, by reason only of such sale having been made without the presentation of such petition to the Civil Court.—Act XXX., 1850, sec. iii.

NOTE.—For rules as to the sale of putnee talooks situated in two or more collectorates, or within a district assigned to an independent deputy collector, see Act VI., 1853, "REALIZATION OF RENT," paragraphs 113 to 124.

# LAND REVENUE.

## REALIZATION OF RENT.

### TABLE OF ENACTMENTS.

| Original Regulation or Act. | Paras. in Consolidation. | REMARKS. |
|---|---|---|
| 1793. XVII. ii. | 1 | |
| iii. | 10 | Part omitted, as no longer applicable. |
| iv. | 12 | Part superseded by sec. xiv., Reg. V., 1812. |
| v. | | Superseded by sec. iii., Reg. VII., 1799. |
| vi., vii. | 14, 15 | |
| viii. | 19 | Modifications from sec. iii., Reg. XXXV., 1795; and sec. iv., Reg. VII., 1799, added. |
| ix., x. | | Rescinded by sec. ii., Reg. XXXV., 1795. |
| xi. | 16 | |
| xii. to xv. | 21 to 24 | |
| xvi. | 13 | |
| xvii. | 25 | |
| xviii., xix. | 30, 31 | |
| xx. | 33 | |
| xxi. | 26 | Part omitted under the operation of sec. x., Reg. VII., 1799. |
| xxii. | | Rescinded by sec. iv., Reg. XXXV., 1795. |
| xxiii. to xxv. | 49 to 51 | |
| xxvi. | | Rescinded by sec. vi., Reg. XXXV., 1795. |
| xxvii. | 8 | |
| xxviii. | 9 | |
| xxix. | | Superseded by Act I., 1839. |
| xxx. | 2 | |
| xxxi. | 28 | With modifications from sec. iv., Reg. VII., 1799. |
| xxxii. | 93 | |
| xxxiii. | 95 | |
| xxxiv. | 99 | |
| 1795 XXXV. | | |
| ii., iv. | | Rescissions: the sections they rescind omitted. |
| iii. | 19 | |
| v. | part in 46 & part in 48 | Modifications from sec. iv., Reg. VII., 1799, introduced. |
| vi. | | A rescinding section. |
| vii. | 53 | |
| viii. | 44 | First part superseded by Act I., 1839. |
| ix. to xx. | | Rescinded by sec. xiv., Reg. VII., 1799. |
| 1795. XLV. ii. | 1 | |
| iii. | 10 | |
| iv. | 12 | Part superseded by sec. xiv., Reg. V., 1812. |
| v. | | Superseded by sec. iii., Reg. V., 1800. |
| vi., vii. | 14, 15 | |
| viii. | 19 | Modifications from sec. iv., Reg. V., 1800, added. |
| ix. | 16 | |
| x. to xiii. | 21 to 24 | |
| xiv. | 13 | |
| xv. | 25 | |
| xvi., xvii. | 30, 31 | |
| xviii. | 33 | |
| xix. | 26 | Part omitted under the operation of sec. x., Reg. V., 1800. |
| xx. | part in 46 & part in 48 | Modifications from sec. iv., Reg. V., 1800, introduced. |
| xxi. to xxiii. | 49 to 51 | |
| xxiv. | 53 | |
| xxv., xxvi. | 8, 9 | |
| xxvii. 1. | | Superseded by Act I., 1839. |
| 2. | 44 | First part superseded by Act I., 1839. |
| xxviii. | 2 | |

| Original Regulation or Act. | Paras. in Consolidation. | REMARKS. |
|---|---|---|
| 1795. XLV. | | |
| xxix. | 93 | |
| xxx. | 29 | |
| xxxi. | 95 | |
| xxxii. | 99 | |
| 1799. VII. ii. | 3 & 94 | |
| iii. | 7 | |
| iv. | 19, 20, 46, 28 | Incorporated with the various sections it modifies. |
| v. | 43 | First part superseded by Act I., 1839. |
| vi., vii., viii. | | Superseded by Act I., 1839. |
| ix. | { 32 / 35 } | Part superseded by sec. xxvii., Reg. XX., 1817; and part by Act X., 1846. |
| x. | 27 | Modifications introduced from sec. xxvii., Reg. XX., 1817. |
| xi. | | Superseded by cl. 2, sec. xxvii., Reg. XX., 1817. |
| xii. | | "UNDER-TENURES." |
| xiii. | 107, 108 | First part being only recital, omitted. |
| xiv. | | Omitted; a rescinding rule. |
| xv. 1. | 54 | |
| 2. | 55 | Part superseded by cl. 2, sec. xv., Reg. XIX., 1817; and sec. xix., Reg. VIII., 1819. |
| 3. | 63 | |
| 4. | 65 | Latter part omitted under sec. vi., Reg. XIV., 1824; and Reg. VIII., 1831. |
| 5, 6, 7. | 66 to 68 | |
| 8. | | "UNDER-TENURES." |
| xvi. | 96 | |
| xvii. | 100 | |
| xviii. | | Superseded by secs. iv. and vii., Reg. VIII., 1831. |
| xix. | 4 | |
| xx. | 74 | First part superseded by Reg. VIII., 1831. |
| xxv., xxvi. | 5 | |
| 1800. V. ii. | 3 & 94 | |
| iii. | 7 | |
| iv. | 19, 20, 46 | Incorporated with the various sections it modifies. |
| v. | 43 | First part superseded by Act I., 1839. |
| vi., vii., viii. | | Superseded by Act I., 1839. |
| ix. | 32, 35 | Part superseded by sec. xxvii., Reg. XX., 1817; and part by Act X., 1846. |
| x. | 27 | Modifications introduced from cl. 2, sec. xxvii., Reg. XX., 1817. |
| xi. | | Superseded by cl. 2, sec. xxvii., Reg. XX., 1817. |
| xii. | | "UNDER-TENURES." |
| xiii. | 107, 108 | First part omitted; being only a recital. |
| xiv. 1, 2. | 54, 55 | Part superseded by cl. 2, sec. xv., Reg. XIX., 1817; and sec. xix., Reg. VIII., 1819. |
| 3. | 63 | |
| 4. | 65 | Latter part omitted under sec. vi., Reg. XIV., 1824; and Reg. VIII., 1831. |
| 5, 6, 7. | 66, 67, 68 | |
| 8. | | "UNDER-TENURES." |
| xv. | 96 | |
| xvi. | 100 | |
| xvii. | | Superseded by secs. iv. and vii., Reg. VIII., 1831. |
| xviii. | 4 | |
| xix. | 74 | First part superseded by Reg. VIII., 1831. |
| 1803 XXVIII. | | |
| ii. 1. | 1 | |
| ii. 2. | 3 & 94 | |
| iii. | 10 | |
| iv. | 12 | Part superseded by sec. xiv., Reg. V., 1812. |
| v. | 7 | |
| vi., vii. | 14, 15 | |
| viii. | 19, 20 | |
| ix. | 16 | |

| Original Regulation or Act. | Paras. in Consolidation. | REMARKS. |
|---|---|---|
| 1803. XXVIII. | | |
| x. to xiii. | 21 to 24 | |
| xiv. | 13 | |
| xv. | 25 | |
| xvi. | 30 | |
| xvii. 1. | 31 | |
| 2. | 32 | Modifications introduced from sec. xxvii., Reg. XX., 1817. |
| xviii. | 33 | |
| xix. 1, 2. | 26, 27 | Modifications from sec. xxvii., Reg. XX., 1817. |
| 3. | | Superseded by cl. 2, sec. xxvii., Reg. XX., 1817. |
| xx. 1. | 46, 48 | |
| 2. | 43 | First part superseded by Act I., 1839. |
| 3. | | Superseded by Act I., 1839. |
| xxi. to xxiii. | 49 to 51 | |
| xxiv. | 53 | |
| xxv., xxvi. | 8, 9 | |
| xxvii. 1, 2. | | Superseded by Act I., 1839. |
| 3. | 44 | Part superseded by Act I., 1839. |
| 4. | | Superseded by Act I., 1839. |
| xxviii. | 2 | |
| xxix. | 93 | |
| xxx. | 95 & 107 | |
| xxxi. | 99 | |
| xxxii. 1, 2. | 54, 55 | Part of cl. 2 superseded by cl. 2, sec. xv., Reg. XIX., 1817; and sec. xix., Reg. VIII., 1819. |
| 3. | 63 | |
| 4. | 65 | Latter part omitted under sec. vi., Reg. XIV., 1824; and Reg. VIII., 1831. |
| 5, 6, 7. | 66 to 68 | |
| 8. | | "UNDER-TENURES." |
| xxxiii. | 96 | |
| xxxiv. | 100 | |
| xxxv. | | Superseded by secs. iv. and vii., Reg. VIII., 1831. |
| xxxvi. | 4 | |
| xxxvii. | 74 | |
| xxxviii. | | "UNDER-TENURES." |
| LII. xli. | 6 | |
| 1805. II. iv. 1. | 73 | |
| 2. | | Unnecessary; being provided for by paragraph 74. |
| 1812. V. xii. | | Unnecessary; omitted. |
| xiii. | 17 | |
| xiv. | 11 | |
| xv., xvi. | 38, 39 | |
| xvii. | 41 | |
| xviii. | 47 | |
| xix. | 52 | |
| xx. | | The words "summary suit" inserted in sec. xv. and xvi.; further reference unnecessary. |
| xxi. | | Superseded by Reg. VIII., 1831. |
| xxii. | 87 | |
| xxiii. | 101 | Incorporated with sec. x., Reg XIV., 1824. |
| 1817. XIX. xv. 1. | 57 | First part, being mere recital, is omitted. |
| 2. | 56 | |
| 3. | 60 | |
| 4. | 62 | |
| xvi. 1. | | Omitted. |
| 2. | 64 | |
| 1819. VIII. | | |
| xviii. 1. | | Preamble; omitted. |
| 2 to 5. | 69 to 72 | |
| xix. | 58 & 61 | |
| 1821. II. iv. | 97 | |
| 1822. VII. xxii. | 59, 69 | |

| Original Regulation or Act. | Paras. in Consolidation. | REMARKS. |
|---|---|---|
| 1824. XIV. ii., iii. | | Rescinded by Reg. VIII., 1831. |
| iv. | 80 | First part unnecessary. |
| v. | | Superseded by Reg. VIII., 1831. |
| vi., vii. | 81, 82 | |
| viii., ix. | 84, 85 | |
| x. | 101 | |
| 1831. VIII. ii., iii. | 75 | |
| iv. | 76 | |
| v. | | Extinct; omitted. |
| vi. | 103 | |
| vii. | 83 | |
| viii. | 98 | |
| ix. | 78, 79 | |
| x. | 77 | |
| xi. | 108 | |
| xii. | 40 | |
| xiii. | 86 | |
| xiv. to xvi. | 110 to 112 | |
| xvii. | 104 | |
| xviii. to xxi. | 88 to 91 | |
| 1832. VII. x. | 102 | |
| 1835. VIII. | 92 | Addition from sec. x., Act VI., 1853. |
| 1839. I. i. | | A rescinding rule; omitted. |
| ii. | 42 | |
| iii. | 45 | |
| 1839. III. i., ii. | 105, 106 | |
| iii. | 109 | |
| 1846. X. i. | 34 | |
| ii., iii. | 36, 37 | |
| 1848. VIII. | 18 | |
| 1852. XXII. | 122 | |
| 1853. VI. i. to viii. | 113 to 121 | |
| ix. | 123 | |
| x. | 92 | |
| 1853. IX. | 124 | |

## TABLE OF DIVISIONS.

| TITLES OF DIVISIONS. | Nos. of Paragraphs. |
|---|---|
| Persons entitled to proceed for Recovery of Arrears ... ... ... ... ... ... | 1 to 3 |
| Powers in Estates held Khas or under the Court of Wards ... ... ... ... ... | 4 to 6 |
| Persons liable to Distraint for Recovery of Arrears ... ... ... ... ... ... | 7, 8 |
| Prohibition of Confinement and Corporal Punishment ... ... ... ... ... ... | 9 |
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| „ in Appeal from Summary Decisions ... ... ... ... ... ... | 100 to 104 |
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| „ of Moonsiffs ... ... ... ... ... ... ... ... ... ... | 107 to 109 |
| Settlement of Jurisdiction when Suits relating to the same matter are brought both before the Courts and Collectors ... ... ... ... ... ... ... ... ... ... ... | 110 to 112 |
| Jurisdiction in Suits, and Power of Sale when the Lands are situated in two or more districts, or in the district of an Independent Deputy Collector ... ... ... ... ... | 113 to 124 |

# LAND REVENUE.

## REALIZATION OF RENT.

### PERSONS ENTITLED TO PROCEED FOR RECOVERY OF ARREARS.

1. Zemindars, independent talookdars, and other actual proprietors of land, and farmers of land who hold their farms immediately of Government, are empowered to distrain, without sending notice to any court of justice or any public officer (excepting the after-notice directed to be given in the cases of defaulters employed in the manufacture of salt, as specified in paragraph 28), the crops and products of the earth of every description, the grain, cattle, and all other personal property, whether found in the house or on the premises of the defaulter, or in the house or on the premises of any other person, within or without the limits of the estate or farm of the distrainer, belonging to their under-renters and ryots, and the talookdars paying revenue through them, for arrears of rent or revenue, and to cause the said property to be sold for the discharge of such arrears. The same powers are likewise vested in dependent talookdars, and zemindars, and in putteedars, distinct or common, for the recovery of arrears of rent from their under-farmers and ryots, and also in under-farmers who farm lands from zemindars, independent talookdars, or other actual proprietors of land, or dependent talookdars, putteedars, or other actual proprietors of land, or farmers of land who hold their farms immediately of Government, to enable such under-farmers to enforce payment of arrears of rent or revenue from their dependent talookdars, zemindars, putteedars, or under-farmers, or ryots. The several descriptions of landholders and farmers of land above specified are to exercise the powers hereby vested in them, under the following rules and restrictions.—Reg. XVII., 1793, sec. ii.; Reg. XLV., 1795, sec. ii.; Reg. XXVIII., 1803, sec. ii., cl. 1.

2. Upon the death of any person vested with the power of distraint, his heirs or successors, who may be entitled to the arrears due to him, shall be at liberty to distrain the property of the defaulters and their sureties, in the cases authorized, for the recovery of the same. It is to be understood, likewise, that managers of the estates of disqualified landholders, and managers of undivided estates belonging to two or more proprietors, all of whom do not come within the description of disqualified landholders, are authorized to exercise the same powers for the recovery of arrears of rent or revenue, as the proprietors of estates committed to their charge would be entitled to exercise, were they to be entrusted with the management of their own estates; subject, however, to the several rules, restrictions, and penalties therein specified.—Reg. XVII., 1793, sec. xxx.; Reg. XLV., 1795, sec. xxviii.; Reg. XXVIII., 1803, sec. xxviii.

3. The zemindars, talookdars, and other landholders and farmers of land, empowered by paragraph 1, to distrain the crops, cattle, and other personal property of their under-tenants for arrears of rent, are authorized to delegate to their naibs, gomashtahs, and other agents employed in the collection of their rents, the power of distraining in their behalf in the mode prescribed by the Regulations, under the responsibility declared in paragraph 91, and the naibs, gomashtahs, and other agents, to whom such power may be delegated by their principals, are authorized to proceed for the recovery of arrears of rent due to their constituents, in the same manner as the latter are authorized to proceed, subject to their own responsibility in addition to that of their principals, for any wilful deviation from the Regulations.—Reg. VII., 1799, sec. ii.; Reg. V., 1800, sec. ii.; Reg. XXVIII., 1803, sec. ii., cl. 2.

### POWERS IN ESTATES HELD KHAS OR UNDER THE COURT OF WARDS.

4. The rules for the recovery of arrears of rent due to proprietors and farmers of land, are to be considered equally applicable to the managers of the estates of disqualified landholders and of joint undivided estates, as well as to collectors or other public officers holding lands in attachment for the purpose of adjusting the public assessment on them, or for any other purpose, or making a khas collection on the part of Government, where no settlement has been made with any proprietor or farmer: and the authorized agents of such managers, collectors, or other public officers, provided they be so commissioned and instructed, are to exercise the same authority as is vested

in the agents of proprietors and farmers of land by paragraph 1.—Reg. VII., 1799, sec. xix.; Reg. V., 1800, sec. xviii.; Reg. XXVIII., 1803, sec. xxxvi.

5. When lands are attached by a collector or other officer of Government, or become subject to a khas collection on the part of Government under any Regulation authorizing the same, or are held under the management of serberakars appointed by the Court of Wards, or by any means come under the immediate management of the officers of Government, so that the rents are collected by them from the ryots, jotedars, dependent talookdars, under-farmers, or other descriptions of under-tenants, the collector, in addition to the power vested in him, and in the officers employed under him, by paragraph 4, is authorized, without any previous application to the Dewanny Adawlut, to proceed against defaulting under-renters, of whatever denomination, from whom arrears of rent may be due, and their sureties, in the same manner as he is authorized by Section XXIII., Regulation VII., 1799, to proceed against sudder farmers paying revenue immediately to Government, and their sureties, if he shall consider this mode of procedure more likely to be effectual in causing payment of the arrear due from them; and in such cases he is authorized to issue the process directed in Section V. of Regulation XIV., 1793, on the report of the tehseeldar, or other officer employed to make the collections, as in cases of arrears due from proprietors or sudder farmers, whose revenue may be made payable to a tehseeldar; or the tehseeldar, or other collecting officer, may, in particular cases, where he may have reason to apprehend the elopement of the defaulter or his surety, himself arrest and convey him to the collector, under the provisions contained in the second clause of Section XXIII., Regulation VII., 1799. In all such cases, however, the collector, before he delivers over the parties to the Dewanny Adawlut, is to satisfy himself that the arrear stated by the tehseeldar or other mofussil officer is justly due; and he is at liberty to keep the alleged defaulter under mofussil peons during the inquiry that may be necessary for this purpose, although the period should exceed the ten days limited by the above section; but all such inquiries are to be brought to a conclusion with the least possible delay.—Reg. VII., 1799, sec. xxv., xxvi.

*Special Rule for the Ceded and Conquered Provinces.*

6. When the lands of disqualified landholders, paying revenue to Government, shall come under the immediate management of the officers of Government, in pursuance of the Court of Wards Regulation, so that the rents are collected by such officers from the ryots, dependent talookdars, under-farmers, or other descriptions of under-tenants, the collector shall proceed against defaulting under-renters, of whatever denomination, from whom arrears of rent may be due, and their sureties, conformably to the rules prescribed for the recovery of arrears of rent due to proprietors and farmers of land paying revenue to Government, which rules shall be considered equally applicable to the managers of the estates of disqualified landholders.—Reg. LII., 1803, sec. xli.

PERSONS LIABLE TO DISTRAINT FOR RECOVERY OF ARREARS.

7. Under-tenants of every description are to be considered defaulters for any arrears of rent withheld beyond the day on which the same may have become payable according to their kistbundies, or other engagements, or where there may be no written specification of the exact term of payment beyond the period when the rent demandable from them may be payable according to established local usage. For all such arrears which may not be paid on demand, defaulters are declared liable to immediate distress, whether the amount shall have been demanded from their sureties or otherwise. In instances wherein the distrainer may proceed to levy distress from an under-tenant who has given security, without having previously demanded the arrear from the surety, it will be incumbent on the tenant to give notice of the distress to his own surety, so as to enable him to discharge the arrear before the sale of the property attached; or the distrainer, if he think proper, may give notice to the surety, and require him to make payment of the arrear. The distrainer may also at his option distrain in the prescribed mode either the property of the defaulter or his surety, or the property of both, so that the whole distress be not excessive in proportion to the arrear; but no distress shall be levied on the property of the surety until the arrear shall have been ineffectually demanded from the defaulter, unless the latter shall have absconded or be otherwise not forthcoming; in which case, and in the event of the surety's not discharging the amount due on demand, distress may be levied from his property for the recovery of it, in like manner as if the defaulter had been present, and served with the demand in the first instance.—Reg. VII., 1799, sec. iii.; Reg. V., 1800, sec. iii.; Reg. XXVIII., 1803, sec. v.

8. Persons who tenant or under-farm lands in the name of their children, dependents, or others, or in the names of fictitious persons, and give themselves as the ostensible sureties for the performance of the agreement, but retain the actual management of the lands, and in fact are

themselves the under-farmers or ryots of such lands, shall, to all intents and purposes, be considered as the under-farmers or ryots of such lands, and their property shall be liable to be distrained and sold for arrears, in the same manner as if the engagement for the lands had stood in their own names.—Reg. XVII, 1793, sec. xxvii; Reg. XLV., 1795, sec. xxv., Reg. XXVIII., 1803, sec xxv.

PROHIBITION OF CONFINEMENT AND CORPORAL PUNISHMENT.

9. Landholders and farmers of land are prohibited confining or inflicting corporal punishment on any under-farmer, ryot, or dependent talookar, zemindar, or putteedar, or their sureties, to enforce payment of arrears of rent or revenue. If any landholder or farmer shall offend against this prohibition, the person so punished or confined shall be at liberty either to prosecute the offender for assault or imprisonment in the Criminal Court, or to institute a suit against him in the Dewanny Adawlut of the jurisdiction, which Court shall award damages against such offender, according to the circumstances of the case, with costs of suit.—Reg. XVII, 1793, sec. xxviii., Reg. XLV., 1795, sec. xxvi.; Reg. XXVIII., 1803, sec. xxvi.

RESTRICTIONS ON DISTRAINT.

10. Persons vested with the power of distraint shall not distrain or sell the lands, houses, or other real property of their under-farmers and ryots, or the talookdars, zemindars, or putteedars, paying revenue through them. All such distraints and sales are declared illegal and void. The defaulter shall stand acquitted of the arrear for which the distress may be levied, the property shall be restored to him, and the distrainer shall be obliged to pay to him damages adequate to the loss which he may prove to have sustained in consequence of such attachment or sale, with all costs of suit.—Reg. XVII, 1793, sec. iii.; Reg XLV., 1795, sec. iii.; Reg. XXVIII., 1803, sec. iii

11. Ploughs and other implements of husbandry, bullocks and other cattle employed in agriculture, together with the tools of artisans, shall not be subject to distress and sale on account of arrears of rent, although the tenant from whom such arrears may be demanded shall not possess other property sufficient to make good the arrear.—Reg. V., 1812, sec. xiv.

12. The seed grain of under-farmers, ryots, and dependent talookdars, zemindars, or putteedars, shall not be distrained for arrears, provided the defaulter shall possess, and the distrainer shall have it in his power to attach other cattle, grain, or property, sufficient for the discharge of the arrear. Distrainers are enjoined to attend strictly to this rule; and every deviation from it shall be punished by an award to the party aggrieved of damages adequate to the injury he may have sustained, with all costs of suit—Reg. XVII., 1793, sec. iv., Reg. XLV., 1795, sec. iv.; Reg. XXVIII., 1803, sec iv.; Reg V., 1812, sec. xiv.

13 The distress levied shall not be excessive, or, in other words, the property seized shall be as nearly as possible proportionate to the amount of the arrear. If any person vested with the power of distraint shall attach any property the value of which shall be disproportionate to the arrear, and it shall be proved that he could have seized other property of less value, and which would have been sufficient for the liquidation of such arrear, the Court of Dewanny Adawlut shall award to the owner damages according to the circumstances of the case, with all costs of suit.—Reg. XVII., 1793, sec. xvi.; Reg. XLV., 1795, sec xiv.; Reg. XXVIII, 1803, sec. xiv.

14. If any person vested with the power of distraint shall attach, or cause to be sold, the property of any under-farmer, ryot, or dependent talookdar, zemindar, or putteedar, for arrears of rent or revenue, and it shall appear upon trial that no arrear was due, the distrainer shall be compelled to restore the property to the owner, or to make good to him the value of it if it shall have been sold, damaged, injured, or destroyed, or shall not be forthcoming, and to pay to him, as damages, a sum adequate to the value of such property and all costs of suit.—Reg. XVII., 1793, sec. vi.; Reg. XLV., 1795, sec. vi; Reg. XXVIII., 1803, sec. vi.

15. If the defaulter shall tender the arrears demanded of him, in the presence of two creditable witnesses, to the person deputed to attach his property, such person shall receive the arrears, and shall not proceed to the attachment.—Reg. XVII., 1793, sec. vii., Reg. XLV., 1795, sec. vii., Reg. XXVIII., 1803, sec. vii.

16. If the defaulter shall tender payment of the arrear demanded of him, in the presence of two creditable witnesses, after his property shall have been attached and prior to the day fixed for its being put up to sale, and also of the necessary expenses attending the attachment, the distrainer shall receive the amount of such arrear and expenses immediately upon the same being tendered, and shall forthwith release the property. In case of any dispute arising respecting the expense

of the attachment, it shall be determined by the commissioner for the sale of distrained property of the district in which the distress may have been levied. The Courts of Dewanny Adawlut are, upon complaint made to them, to punish any distrainer who may act contrary to these provisions, by awarding against him, in favour of the party injured, damages, according to the circumstances of the case, with all costs of suit.—Reg. XVII., 1793, sec. xi.; Reg. XLV., 1795, sec. ix.; Reg. XXVIII., 1803, sec. ix.

*Process of Distraint.*

17. Whenever any zemindar, independent talookdar, or other actual proprietor of land, or any person farming land directly from Government, shall be desirous of distraining the property of his tenant with a view to the recovery of an arrear of rent, such zemindar or other person shall, either previously or at the time of the distress, serve the said tenant with a written demand for the amount of it, accompanied with a jumma wassil baukee, exhibiting the grounds on which the demand is so made; and no process for the distress and sale of property on account of arrears of rent shall be deemed legal and valid, unless the rule here prescribed shall have been duly observed. In all practicable cases the prescribed demand and jumma wassil baukee account shall be served personally on the tenant; but if he abscond or conceal himself, so that they cannot be served personally upon him, they shall be affixed at his usual place of residence: which latter process shall, in such case, be deemed and taken to be a sufficient service of the demand and account in question.—Reg. V., 1812, sec. xiii.

18. If any ryot or tenant of land, upon whom such notice or demand as is specified in the foregoing rule is to be served, shall have no place of usual residence in the zillah where the land to which such notice or demand has reference is situate, the mode of serving such notice or demand with a jumma wassil baukee shall be by affixing it at the mal cutcherry of such land, or other conspicuous place thereon, or at the village chouree, choupal, or other conspicuous place in the village.—Act VIII., 1848.

19. Distrainers shall deliver to the person whom they may depute to attach the property of a defaulter a writing, under their signature, specifying the amount of the arrear for which the attachment may be issued and the date on which such arrear became due. The person so deputed shall produce this writing as his authority for making the attachment: and on the day on which he may attach the property, shall deliver a copy of it to the stated defaulter, endorsing thereon a list or inventory of the property attached and the name of the place where it may be lodged or kept, with a notice to the defaulter, setting forth the amount of the arrear due, and stating the intention of the distrainer to bring the attached property to immediate public sale for the discharge of it, unless the amount and expenses of attachment be previously paid. If the defaulter shall be absent, a copy of the above writing, with the prescribed endorsement, shall be fixed up or left at his usual place of residence, before the expiration of the third day calculating from the day of the attachment. If any person vested with the power of distraint shall cause any property to be attached, without furnishing the agent whom they may employ for that purpose with the writing above directed, or if such agent shall be furnished with the writing prescribed, and shall omit to deliver a copy of it, with the required endorsement, to the defaulter, or in the event of his absence, to leave such copy at his usual place of residence within the period limited, the distrainer shall not be entitled to recover the arrear for which the distress may have been levied, and he shall be compelled to restore the property to the defaulter, or the value of it, if it shall have been sold, damaged, injured, or destroyed, or shall not be forthcoming, and to pay all costs of suit.—Reg. XVII., 1793, sec. viii.; Reg. XXXV., 1795, sec. iii.; Reg. VII., 1799, sec. iv.; Reg. XLV., 1795, sec. viii.; Reg. V., 1800, sec. iv.; Reg. XXVIII., 1803, sec. viii.

20. If the defaulter, on receiving this notice, shall neglect to pay the amount due from him or to give such assurance of early payment as may be satisfactory to the distrainer, or if the defaulter shall have absconded or be otherwise absent, so that the notice cannot be served on him, the distrainer is to transmit an inventory of such part of the attached property as can be brought to immediate sale to the nearest public officer empowered to sell distrained property, with a written request that he will cause the same to be publicly sold for the discharge of the arrear due, the amount of which is also to be specified in the application, together with the place where the property may be in attachment; and if it be the intention of the distrainer to remove it, under the discretion vested in him by the following rule, the place to which such removal is intended.—Reg. VII., 1799, sec. iv.; Reg. V., 1800, sec. iv.; Reg. XXVIII., 1803, sec. viii.

21. Distrainers shall not drive or convey distrained cattle or other property out of the limits of the pergunnah in which it may have been attached. The distrainer shall either leave the property upon the premises in the charge of any person he may think proper, or drive or convey it with due care to a proper place, as near as possible to the premises within the limits of the pergunnah.—Reg. XVII., 1793, sec. xii.; Reg. XLV., 1795, sec. x.; Reg. XXVIII., 1803, sec. x.

22. Distrainers who shall attach the crops or any ungathered products of the earth belonging to their under-farmers, ryots, or the talookdars, zemindars, or putteedars, paying revenue through them, shall cause such crops or products to be reaped or gathered in due season, and store the same in proper houses, barns, or granaries upon the premises, or if there shall be no such places on the premises, in any barn or proper place which can be procured as near thereto as possible within the limits of the pergunnah. The expense of reaping, or gathering and storing such crops or products, shall be paid by the owner upon his redeeming the property, or from the proceeds of the sale in the event of its being sold.—Reg. XVII., 1793, sec. xiii.; Reg. XLV., 1795, sec. xi.; Reg. XXVIII., 1803, sec. ix.

23. Distrainers shall not work the bullocks or cattle, or make use of the goods or effects distrained. They shall provide the necessary food for the cattle or live stock, the expense attending which shall be paid by the owner upon his redeeming the property, or from the proceeds of the sale in the event of its being sold.—Reg. XVII., 1793, sec. xiv.; Reg. XLV., 1795, sec. xii.; Reg. XXVIII., 1803, sec. xii.

24. If property distrained shall be stolen or lost, or be damaged, injured, or destroyed by the weather or otherwise, whilst in the possession of the distrainer, owing to his not having taken the necessary precautions for the due keeping and preservation of it, he shall make good the loss or damage to the owner.—Reg. XVII., 1793, sec. xv.; Reg. XLV., 1795, sec. xiii.; Reg. XXVIII., 1803, sec. xiii.

25. All attachments shall be made after sunrise and before sunset. If any person vested with the power of distraint shall seize, or attempt to seize, the property of any defaulter after sunset and before sunrise for the discharge of arrears of rent or revenue, such distrainer shall not be entitled to recover the arrear; and if the property shall have been attached, shall be compelled to restore it to the defaulter, or the value of it, if it shall have been sold, damaged, injured, or destroyed, or shall not be forthcoming, with all costs of suit.—Reg. XVII., 1793, sec. xvii.; Reg. XLV., 1795, sec. xv.; Reg. XXVIII., 1803, sec. xv.

26. Distrainers are empowered to force open any stable, cow-house, barn, golah, granary, or other building, and to enter any dwelling-house, the outer door of which may be open (excepting the apartments in such dwelling-house which may be appropriated for the zenana or residence of women), and to break open the door of any room in such dwelling-house, for the purpose of attaching any property belonging to a defaulter which may be lodged therein. And if any person shall enter a dwelling-house, or break open any stable, cow-house, barn, golah, granary, or other building not occupied by or in the possession of the defaulter, to distrain property belonging to him, and no such property shall be found therein, the distrainer shall be liable to prosecution by the occupant or possessor for entering such house or breaking open such stable or other building, and the Court shall award to him damages according to the circumstances of the case, with all costs of suit.—Reg. XVII., 1793, sec. xxi.; Reg. XLV., 1795, sec. xix.; Reg. XXVIII., 1803, sec. xix., cl. 1.

27. When a distrainer may have reason to suppose that the property of a defaulter is lodged within a dwelling-house, the outer door of which may be shut, or within any apartments appropriated to women, which by the usage of the country are considered private, he is at liberty to represent the same to the police darogah within whose jurisdiction the house may be situated, and on such representation the police darogah is to proceed in person, or depute the mohurrir or jemadar of the thana to the spot, in the presence of whom the distrainer is authorized to force open the outer door of the dwelling-house in which he may have reason to suppose the defaulter's property to have been lodged, in like manner as he is already authorized to break open the door of any room within a dwelling-house except the zenana. He may also, in the presence of the police-officer, after due notice given for the removal of any women within the zenana, and after furnishing means for their removal in a suitable manner, if they be women of rank, who, according to the customs of the country, cannot appear in public, enter the zenana apartments for the purpose of attaching any of the defaulter's property deposited therein. But such property, if found, shall be immediately removed from such apartments, after which they are to be left free to the former occupants; and nothing herein contained is to be understood to authorize any distrainer or his agent to force open the door of a dwelling-house, or to enter the apartments of women which, by the usage of the country, are considered private, in any other mode than is herein prescribed, a wilful deviation from which will subject the offender to heavy damages, besides forfeiture of the arrear of rent on account of which the distress may be levied.—Reg. VII., 1799, sec. x.; Reg. V., 1800, sec, x.; Reg. XXVIII., 1803, sec. xix., cl. 2; Reg. XX., 1817, sec. xxvii.

28. The several descriptions of landholders and farmers of land specified in paragraph 1 are empowered, under the restrictions herein contained, to attach and sell the property of persons employed in the manufacture of salt for the recovery of arrears of rent or revenue, without previously stating the claim to any salt agent or other officer employed in the salt department. But such distrainers shall, as soon as possible after they shall have attached the property of any

molungee, or other person employed in the manufacture of salt, send information of such attachment in writing to the salt agent in whose division the defaulter may have been employed, or to the native superintendent of the salt chokey to which the defaulter may be attached; and in such cases, the property is not to be sold, until sufficient time has been given to enable the Company's officers to satisfy the demand before the day of sale.—Reg. XVII., 1793, sec. xxxi.; Reg. VII., 1799, sec. iv.

NOTE.—For rules as to the recovery of arrears of rent during the season of the manufacture of salt from persons engaged in that manufacture, see secs. xix. and xx., Reg. X., 1819 ("SALT," paragraphs 26, 27, 28).

*Special Rule for Benares.*

29. Nothing herein contained shall be construed to prohibit persons entitled to distrain from attaching the standing crops of the under-ryots who cultivate on the betay tenure, and appropriating the moiety in value or kind, or such other proportion thereof as they shall be entitled to, under the rules contained in Regulation II., 1795 ("SETTLEMENT"), leaving to such ryots who shall deem themselves aggrieved by any act of the landholder or superior renter exercising this right, his remedy by application to the Adawlut.—Reg. XLV., 1795, sec. xxx.

RESISTANCE TO, AND FRAUDULENT EVASION OF, PROCESS.

30. If any under-farmer, ryot, or dependent talookdar, zemindar, or putteedar, shall make a fraudulent conveyance or transfer of his property to prevent the attachment of it for arrears, the Court of Dewanny Adawlut, upon proof thereof being made before it, shall cause the property to be delivered up to the distrainer, and compel the person to whom such transfer or conveyance shall have been made to pay to the distrainer damages adequate to the value of one-half of the property, with costs of suit.—Reg. XVII., 1793, sec. xviii.; Reg. XLV., 1795, sec. xvi.; Reg. XXVIII., 1803, sec. xvi.

31. If any under-farmer, ryot, or dependent talookdar, zemindar, or putteedar, shall resist the attachment of his property, or shall forcibly or clandestinely take it away after it shall have been attached, the Court of Dewanny Adawlut shall cause him, and all persons who may be proved to have been his aiders or abettors, to be imprisoned in the gaol until he shall restore the property to the distrainer, or the arrear shall have been liquidated by the distraint and sale of other property, or otherwise discharged, with the expenses attending the attachment, and costs of suit.—Reg. XVII., 1793, sec. xix.; Reg. XLV., 1795, sec. xvii.; Reg. XXVIII., 1803, sec. xvii., cl. 1.

32. In addition to the penalties provided by the foregoing rule, it is provided that if any under-tenant, of whatever description, shall resist, or cause to be resisted, the attachment of his property for arrears of rent, in the mode prescribed by the Regulations, so as to prevent the attachment from taking place, or shall forcibly or clandestinely take away such property after it shall have been attached, such offender shall, on proof before the Dewanny Adawlut, be made liable to damages to the distrainer equal to twice the amount of the property rescued from attachment, and the property so taken away may be re-attached by the distrainer wheresoever it may be found. The offender, and all persons concerned with him in resisting the attachment, are moreover declared liable to be apprehended and prosecuted before the criminal courts, for any breach of the peace committed by them in such resistance to the attachment. In cases of resistance, or anticipated resistance, application may be made to the police for aid in making or maintaining a distraint, and the police darogahs are in such cases to proceed as directed in Section XXVII., Regulation XX., 1817 ("POLICE," paragraphs 243 to 248).—Reg. VII., 1799, sec. ix.; Reg. V., 1800, sec. ix.; Reg. XXVIII., 1803, sec. xvii., cl. 2.; Reg. XX., 1817, sec. xxvii.

33. If any person, not being the owner, shall be convicted of forcibly or clandestinely taking away property that has been distrained, the Court of Dewanny Adawlut, upon proof thereof being made before it, shall cause such person or persons to be imprisoned until they restore the property, or make good the value of it to the distrainer, and pay to him, as damages, a sum equal to the value of such property, and all costs of suit.—Reg. XVII., 1793, sec. xx.; Reg. XLV., 1795, sec. xviii.; Reg. XXVIII., 1803, sec. xviii.

PREVENTION OF ATTACHMENT BY INSTITUTING A SUIT.

34. If any person not being a defaulter, or responsible for him, shall claim as his right property which has been distrained for arrears of rent due from the said defaulter, and shall within

five days, reckoning from the day after attachment, enter into a bond before the collector of the zillah or the commissioner for the sale of distrained property, with good security, binding himself to institute before the collector, within fifteen days from the date of such bond, a summary suit against the distrainer and defaulter for the trial of the right, and to restore the property or make good its value in case the claim be disallowed, with all costs of suit and damages, the distrainer shall immediately withdraw the attachment —Act X, 1846, sec i

35 But no claim to crops upon the ground or to any gathered product of the ground attached in the possession of the defaulter, whether founded upon a previous sale, mortgage, or otherwise, shall bar the prior claim of rent due for the ground upon which such crop or product may have been grown, it being the undoubted right of the owner of the land, or his representative, to consider the produce of it mortgaged to him for the rent of the land in the first instance, and in default of his rent being paid as engaged for (or determinable by local rates and usage, where there may be no specific engagement), to distrain and sell such part of the product as may be necessary to make good the arrear due to him —Reg VII, 1799, sec ix, Reg V, 1800, sec ix

36 If the claimant shall not, within the said fifteen days, institute such summary suit, it shall be lawful for the distrainer to recover the value of the property distrained, together with the expenses of the attachment, by attachment and sale of the personal property of the claimant, or his surety, or both, unless the claimant shall restore the property, or, if the distrainer prefer it, make good its value —Act X, 1846, sec ii

37 No suit to set aside the summary award of the collector under paragraphs 34 and 35 shall be brought after the expiration of one year from the date of such award —Act X, 1846, sec iii

38 If an attachment for arrears shall have been issued against the property of any tenant of any description, whether denominated under-farmer, ryot, or dependent talookdar, who may not have given security for the payment of his rent or revenue, and such tenant shall dispute the justness of the demand and shall within five days, reckoning from the day following the attachment, or if the property attached consists of crops or other ungathered products of the earth, within five days, calculating from the day following the date on which such crops or products may be stored, enter into a bond before the collector of the zillah, or the commissioner vested with power to sell distrained property, or before the distrainer himself, with good security, binding himself to institute a summary suit before the collector, or a regular suit in the Civil Court, within fifteen days from the date of such bond, for the trial of the demand, and to pay whatever sum may be adjudged to be due from him, with interest upon it at the rate of twelve per cent. per annum, to be calculated from the date on which the arrear that may be awarded became payable to the date of the decree, with all costs of suit, the distrainer shall immediately withdraw the attachment and restore the property to the defaulter If the stated defaulter shall fail to execute the bond within the period prescribed, the distrainer shall be at liberty to keep the property under attachment, and to cause it to be sold in the manner hereafter directed, unless the arrear, with the expenses of the attachment, shall be discharged previously to the day of sale If the defaulter shall execute the bond, but omit to institute the suit within the time prescribed, the distrainer shall demand payment of the arrear from the surety, and in the event of his not discharging the amount immediately, the distrainer shall be at liberty to issue an attachment against the personal property both of the surety and the defaulter, or the personal property of either of them, excepting always the articles specified in paragraph 11, and to cause it to be sold, unless the arrear and the expenses of the attachment shall be discharged previously to the day of sale —Reg V, 1812, secs xv, xx; Reg II, 1821, sec iv

39 If an attachment for arrears shall have been issued against any tenant who may have given security for the payment of his rent or revenue, and such tenant shall dispute the justness of the demand, and the surety, within five days, reckoning from the day following the day of the attachment, or if the property attached shall consist of crops or other ungathered products of the earth, within five days calculating from the day following the date on which such crops or products may be stored, shall deliver a writing, attested by two witnesses, to the collector of the district, or the commissioner vested with power to sell distrained property, or to the distrainer himself, engaging that either he or the stated defaulter will institute a summary suit before the collector, or a regular suit in the Civil Court, within fifteen days from the date of such writing, to try the demand, and to pay the amount that may be adjudged against them with interest upon it at the rate of twelve per cent. per annum, to be calculated from the date on which the arrear that may be awarded became payable to the date of the decree, with all costs of suit, the distrainer shall immediately withdraw the attachment If the surety shall fail to execute such writing within the prescribed period, the distrainer shall continue the property under attachment, and cause it to be sold in the manner hereafter directed unless the arrear and the expenses attending the attachment shall be discharged previously to the day of sale If the surety shall execute the writing, but fail to have the suit instituted, either in his own name or that of the defaulter, within the above-mentioned period of fifteen days, the distrainer shall demand payment of the arrears from the

surety, and in the event of his omitting to discharge the amount immediately, the distrainer shall be at liberty to issue an attachment against the personal property both of the surety and the defaulter, or the personal property of either of them, excepting always the articles specified in paragraph 11, and to cause it to be sold in the manner hereafter directed, unless the arrears and the expense attending the attachment shall be discharged before the day of sale. If the surety of the stated defaulter shall refuse or omit to enter into the writing required, or if he shall happen to be at a distance, so as to render it impossible for him to execute such writing within the prescribed time, and such defaulter in either of these cases shall give the security required from the defaulters, specified in paragraph 38, the distrainer shall withdraw the attachment, and the rules contained in the foregoing paragraph shall in every respect be considered applicable to the parties concerned.—Reg. V., 1812, secs. xvi. and xx.; Reg. II., 1821, sec. iv.

40. If a part only, and not the whole, of the demand be contested, it shall be competent to the individual whose property is distrained to release it from distraint, on paying a part of the demand, and giving security to contest the remainder.—Reg. VIII., 1831, sec. xii.

41. Should any ryot, farmer, or dependent talookdar, whose property may have been distrained, be unable to give security to the amount of the demand, together with interest upon it at the rate of one rupee per mensem, with costs of suit and expenses of attachment, he will of course be at liberty to institute a suit against the distrainer in the Dewanny Adawlut to try the demand, and for the recovery of damages on account of any injury which he may have sustained by the illicit sale of his property.—Reg. V., 1812, sec. xvii.

### COMMISSIONERS FOR SALE OF DISTRAINED PROPERTY.

42. It shall be lawful for the collector, or officer duly exercising the powers of a collector, in each district subject to the presidency of Fort William in Bengal, to appoint, by a sunnud under his signature and seal, in the terms of the schedule hereunto appended, and conformably to such instructions as he may receive in that behalf, any person or persons to exercise the function of selling property distrained for the recovery of arrears of rent in each pergunnah or sub-division of his district; and to authorize such persons to remunerate themselves by deducting a percentage, not in any case exceeding ten per centum on the amount of the proceeds of the sale.—Act I., 1839, sec. ii.

43. No such commission shall be drawn, nor any charge made to the defaulter, beyond expenses actually and necessarily incurred in the event of the sale being stopped by his discharge of the arrear due from him, or otherwise. It is expected that this allowance to the officers intrusted with the sale of distrained property will insure the faithful discharge of the trust reposed in them; and any collusion with the defaulter, distrainer, or purchaser, or other misconduct in the execution of the duty committed to them, will render them liable to immediate dismission from their offices in the mode provided by the Regulations, besides subjecting them to the other penalties therein specified, and full damages to the party injured.—Reg. VII., 1799, sec. v.; Reg. V., 1800, sec. v.; Reg. XXVIII., 1803, sec. xx., cl. 2.

44. No person vested with the power of disposing of distrained property shall sell property that may have been distrained for arrears due to himself. Persons of this description having occasion to levy arrears by distress, are to apply to some other person duly empowered for the sale of the property.—Reg. XXXV., 1795, sec. viii.; Reg. XLV., 1795, sec. xxvii., cl. 2; Reg. XXVIII., 1803, sec. xxvii., cl. 3.

45. All Regulations, and parts of Regulations, of the Bengal code, which give powers to or prescribe rules for the guidance of persons appointed to conduct the sale of property distrained for the recovery of arrears of rent, or which assign any penalty or other punishment for misfeasance in the discharge of such duty, shall be applicable to all parties appointed for the sale of such property under this Act.—Act I., 1839, sec. iii.

### PROCESS OF APPRAISEMENT AND SALE.

46. After the expiration of the fifth day and before the elapse of the eighth day, calculating from the day following the day on which the attachment of the property of a defaulter shall have taken place, or if the property attached shall consist of crops or other ungathered products of the earth, after the elapse of the fifth day and before the expiration of the eighth day, commencing from the day following the day on which such crops or products may have been stored as directed in paragraph 22, the distrainer shall apply to the commissioner for the sale of distrained property to have the same appraised and sold. Upon the receipt of such application, the commissioner shall proceed as follows. He shall fix up on the outer door of his own house, and at the place at

which he may determine to dispose of the property, a list of the property attached, with a notice which shall specify, Firstly, the place at which the property is to be sold, which shall be on the spot where it may be lodged by the distrainer, or at the nearest gunge, bazaar or haut, or any place of public resort where the commissioner may be of opinion it is likely to sell to the best advantage; Secondly, the day on which it is to be sold, which shall be as early a day as may be compatible with a due observance of the other directions for the appraisement of the property and the publication of the intended sale; and Thirdly, the time of the day when the sale is to be made, which shall be during the hours of business when the greatest number of people may be supposed to assemble. Publication of the intended sale shall be made by beat of drum, on one market-day at the least before the market-day on which the sale may take place, as well as on the morning of the day of sale; and the sale is in no instance to take place before the expiration of five complete days after the attachment, exclusive of the day on which the attachment may have been made. The same principle is to be observed with respect to the sale of ungathered products after the distrainer shall have gathered and stored them, as required by paragraph 22, and which are not to be sold until publication shall have been made as above directed.—Reg. XXXV., 1795, sec. v.; Reg. VII., 1799, sec. iv.; Reg. XLV., 1795, sec. xx.; Reg. V. 1800, sec. ix.; Reg. XXVIII., 1803, sec. xx.

47. Whenever property shall have been distrained with a view to the sale of it for the recovery of arrears of rent, it shall be appraised, previously to such sale, by persons conversant with the purchase and sale of articles of the quality and description of those so distrained, and a certificate of the appraisement shall be furnished by the appraisers, under their signatures, which shall be communicated to the tenant at least three days before the sale.—Reg. V., 1812, sec. xviii.

48. The commissioner for the sale of distrained property shall nominate two creditable persons, competent by their profession, trade, or occupation, to appraise the property. The persons so appointed shall appraise the property according to the current price which the several articles may then bear in the country, and shall deliver the particulars of the appraisement in writing, and attest the same with their signatures, and shall certify in writing, at the foot of the paper, that they have appraised the property according to the best of their knowledge and judgment. The commissioner shall affix his seal to the paper of appraisement, and cause it to be stuck up on the outer door of his own house, and at the place where the property is to be sold. The property shall be brought to the place of sale on the morning of the day of sale, in order that it may be examined by the persons intending to bid, unless it shall consist of grain or other products of the earth, the removal of which would be attended with considerable expense, in which case samples only, indiscriminately taken from each article, shall be brought to the place of sale, and exposed for the purpose above mentioned. The property shall be put up to sale in one lot, or in two or more lots, as the commissioner may think advisable. The property shall be disposed of for the highest price that may be offered for it. If the property shall sell for more than the amount of the arrear, the overplus, after deducting the charges attending the attachment and sale of it, shall be returned to the defaulter. If the proceeds of the sale shall be insufficient for the discharge of the arrear, and the expenses attending the attachment and sale, the distrainer shall be at liberty to attach other property belonging to the defaulter, and to cause it to be sold to make good the deficiency. The commissioner is, in every case, to examine the distrainer's statement of the expenses consequent to the attachment and sale of the property, and to reject any part of it that may appear to him unreasonable. If any person vested with the power of distraint shall sell or dispose of property which he may have attached for arrears of rent or revenue, in any other mode than that herein prescribed, he shall forfeit the arrear for which the distress may be levied to the defaulter, and make good to him the value of the property sold or disposed of, with all costs of suit.—Reg. XXXV., 1795, sec. v.; Reg. XLV., 1795, sec. xx.; Reg. XXVIII., 1803, sec. xx., cl. 1.

49. The commissioner is to be careful to prevent any unfair practices, either in the appraisement or sale of property. Upon proof being made, before a Civil Court, of his conniving at any such practices, the Court shall cause him to make good any loss or injury that the defaulter may have thereby sustained, with costs of suit, and shall immediately report the circumstances of the case to the *Sudder Dewanny Adawlut, for the information of the Governor-General in Council, who,* provided there shall appear to him sufficient reason for so doing, shall dismiss such commissioner from his office.—Reg. XVII., 1793, sec. xxiii.; Reg. XLV., 1795, sec. xxi.; Reg. XXVIII., 1803, sec. xxi.

50. The distrainer, the commissioner, and the appraisers, are prohibited purchasing, directly or indirectly, any part of the property. Any commissioner or appraiser offending against this prohibition, shall be compelled to restore the property to the defaulter, or the full value of it in the event of its being injured, damaged, destroyed, or not forthcoming, and shall forfeit the purchase-money, which shall be appropriated to the liquidation of the arrear, and pay all costs of suit; and the Court shall report the circumstances *to the Sudder Dewanny Adawlut, for the informa-*

*tion of the Governor-General in Council, who,* if there shall appear to him sufficient ground for so doing, shall dismiss such commissioner from his office. Distrainers acting contrary to the prohibition contained in this paragraph shall be compelled to restore the property to the defaulter, or the full value of it if it shall have been injured, damaged, or destroyed, or shall not be forthcoming, and shall likewise forfeit to him the arrear for which the property may have been attached and pay all costs of suit.—Reg. XVII., 1793, sec. xxiv.; Reg. XLV., 1795, sec. xxii.; Reg. XXVIII., 1803, sec. xxii.

NOTE.—Such parts of the preceding rules as are printed in italics would seem to be superseded by the operation of paragraphs 42 to 45.

51. Neither the defaulter, nor any person on his behalf, shall be permitted to bid for or purchase the property.—Reg. XVII., 1793, sec. xxv.; Reg. XLV., 1795, sec. xxiii.; Reg. XXVIII., 1803, sec. xxiii.

52. If at the time of sale a price shall not be offered for the distrained property equal to its appraised value, the sale shall be postponed until the ensuing market-day, when the property shall be actually sold, whatever price (not less than the amount bidden on the first day of sale) may be offered for it.—Reg. V., 1812, sec. xix.

53. The property shall be paid for in ready money at the time of the sale, and the purchaser shall not be permitted to carry away any part of the property which shall not have been paid for. Should the purchaser fail in the payment of the whole or part of the purchase-money within five days, calculating from the day following the sale, the whole of the property, or the part of it which may be unpaid for, shall be resold by the commissioner, on such day as he shall fix, for the best price that may be offered for it. The defaulting purchaser shall forfeit to the distrainer ten per cent. on the amount of the price at which he shall have purchased the property so resold, and make good to him any loss that may arise, as well as the expenses that may be incurred on the resale. If any profit shall accrue on the resale, it shall be carried to the credit of the defaulter.—Reg. XXXV., 1795, sec. vii.; Reg. XLV., 1795, sec. xxiv.; Reg. XXVIII., 1803, sec. xxiv.

### PROCESS OF ARREST.

54. Any zemindar, talookdar, or proprietor or farmer of land, to whom an arrear of rent may be due from a dependent zemindar, talookdar, kutkinadar, jotedar, or other under-tenant of whatever denomination, which cannot be realized by distraining the personal property of such under-tenant, and his surety (if he shall have given security), is at liberty, after demanding such arrear from the defaulter, and from his surety if forthcoming, or without any express demand if he have reason to believe that the defaulter or his surety is prepared to abscond, to cause the immediate arrest of such defaulter and his surety in the manner following.—Reg. VII., 1799, sec. xv., cl. 1.; Reg. V., 1800, sec. xiv., cl. 1.; Reg. XXVIII., 1803, sec. xxxii., cl. 1.

55. The proprietor or farmer to whom the arrear may be due, or his authorized agent, is at liberty to present a petition to the collector within whose jurisdiction the party may reside, setting forth in specific terms the arrear due from the defaulter, and praying that he and his surety (in case he shall have given security) may be taken into custody, unless the amount be paid.—Reg. VII., 1799, sec. xv., cl. 2.; Reg. V., 1800, sec. xiv., cl. 2.; Reg. XXVIII., 1803, sec. xxxii., cl. 2.

56. The petition for the arrest of defaulting under-tenants or their sureties, shall specify, besides the name and residence of the defaulter and surety, and the mehaul for which the balance of rent is claimed, the annual jumma of such mehaul, the amount demandable for the kists of the current year which may have become payable, the amount received from the tenant or his surety, and the balance actually due for the payment of which the arrest is desired. The petition shall also state whether the arrear claimed has been demanded from the defaulter or his surety, and the result.—Reg. XIX., 1817, sec. xv., cl. 2.

57. Whenever a dependent talookdar, kutkinadar, jotedar, or other under-tenant, or the surety of any such under-tenant, from whom an arrear of rent may be due, and who may have failed to discharge the same on demand, may reside, or be in a zillah or city, different from that wherein the land for which the arrear of rent is due may be situated, it shall be competent to the zemindar, or other proprietor or farmer of the land, to whom the arrear of rent may be owing, or his authorized agent, to present a petition specifying the particulars stated in the preceding paragraph, and praying for the arrest of the defaulter, or his surety, to the collector of the district in which the defaulter or his surety may reside or be; and the collector receiving the same shall immediately issue the process of arrest.—Reg. XIX., 1817, sec. xv., cl. 1.

58. In addition to the foregoing rules, it is hereby provided that any zemindar, talookdar, farmer, or other person entitled to receive rent, who may desire to take out summary process

against the person of a defaulter, shall be at liberty to make application for the purpose either to the collector of the district within which the land may be situated, or of the district wherein the defaulter may be at the time resident, at his option. In the event of his applying to the collector of the district, within which the defaulter may not be resident, the process shall be transmitted by dawk to the collector of the district where he may reside, in order to be there served in the usual form.—Reg. VIII., 1819, sec. xix.

59. Whenever it shall be desired to apprehend a defaulter residing out of the jurisdiction of the collector, before whom the suit relative to the alleged arrear may be cognizable, the process of arrest shall be served through the collector of the district where the alleged defaulter may reside. —Reg. VII., 1822, sec. xxii.

60. If the defaulter or surety against whom process of arrest may be issued under paragraph 57 may be found within the jurisdiction of the collector by whom the same shall have been issued, and after being arrested he shall not pay the arrear demanded, or satisfy the party causing his arrrest, and shall in consequence be brought to the collector serving the process, the said collector shall call upon him to show cause why he should not be sent to the collector of the district in which the land for which the arrear is claimed (or the greater part of it, if in two jurisdictions) may be situated, and if sufficient cause be not assigned, or substantial security given for attending the collector of the district in which the land is situated within a limited period, the party arrested shall be sent in custody of mohussil peons (at the charge of the party claiming the arrear) to the collector of the district in which the land may be situated. A statement of the case, with the original petition of arrest, and all other papers connected with it, shall at the same time be transmitted for the information of the collector to whom the party in arrest may be sent in such cases. The petition of arrest, and all papers connected with it, shall likewise be sent to the collector of the district in which the land may be situated, whenever the party arrested may assign sufficient cause for not being sent as directed, or may give security for his attendance, which shall be accepted whenever substantial security may be offered.—Reg. XIX., 1817, sec. xv., cl. 3.

61. The defaulter, if apprehended, shall be sent over in custody; or if he should not be found, so that the process cannot be served, a return shall be made accordingly, and the deposition of the peon employed shall further be taken, to be sent along with the return for the satisfaction of the collector issuing the process, as to the efforts made to apprehend the defaulter.—Reg. VIII., 1819, sec. xix.

62. When a defaulting tenant or his surety may be brought to the collector of the district in which the land is situated, or may attend under security for his appearance, in pursuance of paragraph 60, the collector shall proceed, as directed in similar cases, by the Regulations in force, when the defaulter or surety may have been arrested within his own jurisdiction.—Reg. XIX., 1817, sec. xv., cl. 4.

63. On the petition of arrest being presented to the collector (and to save time, it is allowed to be presented either in or out of Court, and by any authorized agent), the collector, if the defaulter or surety be within his jurisdiction, is immediately to issue a dustuck for the arrest of such party, and to bring him before the collector, unless he pay the arrear demanded; and if such payment be not made on the service of the dustuck, or within twenty-four hours afterwards (which time is to be allowed to the party arrested to adjust the demand), the officer charged with the dustuck is to complete the execution thereof by conveying the party to the collector. Provided, however, that if the party arrested shall, by a written application, request a longer period than twenty-four hours to adjust the demand against him, and the party causing the arrest shall, by a written superscription or endorsement on such application, acquiesce therein, the officers charged with the dustuck shall delay the execution accordingly; and whenever the party at whose instance the dustuck may have been issued shall, by a written derkhaust, declare himself satisfied, and desire the arrest to be withdrawn, it shall be immediately withdrawn accordingly, the officers charged with the dustuck (who are never to exceed two in number, unless in any particular case a greater number be considered necessary to prevent escape) being at the same time paid the tullubaneh due to them according to the established rate of two annas per diem, or any lower rate that may have been the customary allowance to persons deputed with revenue processes.—Reg. VII., 1799, sec. xv., cl. 3; Reg. V., 1800, sec. xiv., cl. 3; Reg. XXVIII., 1803, sec. xxxii., cl. 3.

64. Whenever a dependent talookdar, kutkinadar, or other under-tenant of land, or his surety, may be arrested on the demand of an arrear of rent, under the summary process authorized by the Regulations, and may deny that the arrear demanded, or any part of it, is owing, and such under-tenant or surety shall tender sufficient security for his personal attendance during the prescribed summary inquiry, it shall be competent to the collector to receive such security, and to admit the tenant or surety to bail, until the inquiry directed to be made in such cases, by examining the accounts and vouchers of the parties, shall be completed, and a decision passed thereupon.—Reg. XIX., 1817, sec. xvi., cl. 2.

65 When a defaulter or his surety may be brought to the collector, the collector shall call upon him to answer the demand against him, and if he deny it, or any part of it, shall enter upon a summary inquiry into the merits of it, by examining the vouchers and accounts of the parties.—Reg VII, 1799, sec xv, cl 4, Reg V, 1800, sec xv, cl 4, Reg XXVIII, 1803, sec xxxii, cl 4

66 The collector, after completing his inquiry, is to discharge the defendant, with full costs and damages, if it appear that no arrear is due from him, or that the arrear demanded has been wilfully mis-stated by the plaintiff, and a considerable proportion of the demand is not justly due to him But if it appear that the arrear demanded, or a considerable proportion thereof, be justly due from the defendant, he is to be kept in close custody until he pay the amount, with all costs, and interest on the arrear at the rate of one per cent per mensem, or until the plaintiff make application to the collector for his release The plaintiff is to pay to such defendants, whilst in confinement, the same allowance for their subsistence as is fixed for other prisoners in the gaol of the Dewanny Adawlut, by Section VIII of Regulation IV, 1793, viz, such allowance as the collector may think proper on consideration of the rank and situation of the prisoner, not exceeding four annas, nor less than one anna per diem, and the payment is to be made in the same manner and under the same provisions as prescribed in the above section —Reg VII, 1799, sec xv, cl 5, Reg V, 1800, sec xiv, cl 4, Reg XXVIII, 1803, sec xxxii, cl 4

67 When an under-farmer, jotedar, or other under-tenant, arrested as above described, shall not immediately discharge the arrear demanded from him, and shall in consequence be taken in custody to the collector, the proprietor or farmer of land to whom such arrear may be owing is at liberty to attach the farm, jote, or other tenure of such defaulter, and to manage the same by his own agents, or in such manner as he may think proper, until the rent due to him, with the further rent that may become due after the attachment, and interest upon the whole arrear, at the rate of one per cent per mensem, shall have been liquidated from the produce But in such cases of attachment, the proprietor or farmer making the same shall not exact more from the cultivators of the soil, and other descriptions of inferior tenantry, whose rents for the current year may have been payable to the defaulter than the defaulter himself would have been entitled to receive from them if the attachment had not taken place (cases of collusion and illegality under the Regulations excepted), and in the event of the defaulter making good the arrear due from him, with interest at the rate of one per cent per mensem, at any time within the current year, the attachment shall be immediately withdrawn, and a full and fair account rendered to him of all receipts and disbursements during the continuance of it —Reg VII, 1799, sec xv, cl 6, Reg V, 1800, sec xiv, cl 6, Reg XXVIII, 1803, sec xxxii, cl 6

68 If the arrear be not liquidated within the current Bengal, Fusly, or Willaity, year (according to the era current in the province), either by the payments of the defaulter or his surety, or by the attachment of his tenure, the zemindar, talookdar, or other proprietor of the land, or the farmer in whose farm the defaulter's tenure may be included (if such farmer's lease extend beyond the current year), is at liberty, at the commencement of the ensuing year, to make such provision for the future receipt of the rents payable to him from the land tenanted by the defaulter as he may judge proper, and may be consistent with the rights of all other persons concerned. If the defaulter be an under-farmer for the past year only, or whose lease may have expired with the past year, he can of course have no claim to any further lease, and although his lease may not have expired, if he shall have neglected to fulfil the conditions of it by the payment of his stipulated rent, it must be considered liable to be annulled, or otherwise, at the option of the lessor If the defaulter be a dependent talookdar, or the holder of any other tenure which, by the title-deeds or established usage of the country, is transferable by sale or otherwise, it may be brought to sale, by application to the collector, in satisfaction of the arrear of rent, and the purchaser will become the tenant for the new year, or if the defaulter be a leaseholder or other tenant, having a right of occupancy only so long as a certain rent, or a rent determinable on certain principles according to local rates and usages, be paid, without any right of property or transferable possession, the proprietor of whom such tenure is held, or the farmer or other person to whom such proprietor may have leased or committed his rights, must be understood to have the right of ousting the defaulting tenant from the tenure he has forfeited by a breach of the conditions of it In such cases (viz, in the several cases enumerated in this paragraph, under the stated exception when a sale of landed property may be desired), proprietors and farmers of land are at liberty to exercise the just powers appertaining to them, without any previous application to the courts or collectors, but they will be held responsible for all acts done by them or by their agents which may exceed their just powers, and infringe the rights of under-tenants of whatever description, whether founded on pottahs or other written deeds and engagements, or on long prescription and established local usage This Regulation is not meant to define or limit the actual rights of any description of landholders or tenants which can be properly ascertained and determined by judicial investigation only, but merely to point out in what manner defaulting tenants may be

proceeded against in the event of their not paying the rents justly due from them, leaving them to recover their rights, if infringed, with full costs and damages, in the established courts of justice, under the provisions already stated in this Regulation for bringing such causes to a determination with the least possible delay.—Reg. VII., 1799, sec. xv., cl. 7; Reg. V., 1800, sec. xiv., cl. 7; Reg. XXVIII., 1803, sec. xxxii., cl. 7.

69. When a summary suit for arrears alleged to be due may have been instituted against a talookdar, or against a farmer, or against the holder of any other intermediate tenure between the zemindar and the actual cultivators, it shall be competent to the party who may have instituted such suit (whether the alleged defaulter shall have been arrested or not), to send a sezawul of his own authority to attach and collect the rents of the actual cultivators immediately from themselves: provided, however, that such power of attachment shall not be exercised, unless the arrear of rent claimed in the summary suit shall have been actually due for one entire month before the date of attachment, and shall not be less in amount than the entire kist of the month on account of which the arrear may be claimed.—Reg. VIII., 1819, sec. xviii., cl. 2; Reg. VII., 1822, sec. xxii.

NOTE.—The provisions of paragraphs 58, 61, 69, 70, 71, and 72, were originally enacted for the Lower Provinces only, but were extended to all the provinces immediately subject to the presidency of Fort William by sec. xxii., Reg. VII, 1822.

70. After process of arrest may have been taken out in the usual form, if the return of the nazir be, that after diligent search the party cannot be found, it shall be optional with the plaintiff to move the collector by his vakeel or authorized agent to solicit a postponement of the case for a month, in order to cause another process to be served at any time in the course of it that may afford the chance of securing the person of the defaulter, and then to have a notice issued, and the case brought to judgment; or to cause proclamation to be made without such postponement, that after fifteen days from the date of notice, the collector will proceed to a summary investigation of the balance, and in case of the non-attendance of the defendant, will pass judgment summarily upon the documents and proofs that may be exhibited by the plaintiff ex parte.—Reg. VIII., 1819, sec. xviii., cl. 3; Reg. VII., 1822, sec. xxii.

71. When an arrear may be adjudged to be due in the manner above provided, the zemindar or other plaintiff in the suit shall be at liberty to cancel, of his own authority, any lease, farm, or other limited interest intermediate between himself and the actual cultivator, on account of which the rent may have been claimed; but no summary award for arrears shall be considered to warrant the subjecting real property belonging to the defendant in such an action to sale in execution, except in cases in which the balance may be due on account of a putnee talook, or of any other talook which may have been declared by the Regulations to be liable to sale for arrears; such talook will of course be liable to be sold for the arrears which may have accrued upon it in the mode prescribed; but if the zemindar or other plaintiff should be desirous of having any other estate, or house, or landed property of a defaulter, brought to sale in satisfaction of his claim of rent, it will be necessary for him to institute a regular suit for the purpose, notwithstanding the existence of the summary award in his favour.—Reg. VIII., 1819, sec. xviii., cl. 4.

72. The provisions contained in paragraphs 69 and 71, so far as they relate to the power of attaching and cancelling (under the circumstances therein described) the leases, farms, or other limited interests of persons holding intermediately between the proprietor and the actual cultivator, are hereby declared not to extend to khoodkasht ryots or other resident cultivators of the soil. For any arrears which may be alleged to be due from those classes of persons, the party claiming them may proceed at any time during the year by distraint, or by process of arrest and summary suit, under the existing rules; proprietors, talookdars, or farmers, however, to whom an arrear of rent may be due at the end of the year from any khoodkasht ryot or other resident cultivators of the soil, are at liberty to institute a summary suit to establish the existence of such an arrear, taking out process of arrest in the usual form. If the defendant shall not attend or cannot be arrested, the forms of process and proceeding prescribed in paragraph 70 shall be considered to be applicable to the case, and any summary judgment previously obtained on account of rent of the year just closed shall be received as evidence of such arrear, upon the plaintiff's showing that judgment in question has remained unexecuted. If an arrear shall be adjudged by the collector to be due, and the amount shall not be immediately paid into Court, the plaintiff shall be authorized by the collector to make such new arrangement as he may judge proper for the future management of the lands in question.—Reg. VIII., 1819, sec. xviii., cl. 5.

73. The provisions for the arrest of defaulting under-tenants and their sureties from whom arrears of rent may be due to proprietors and farmers of land, and for a summary inquiry to be made by the collectors when the parties so arrested for arrears of rent may be brought before them, are, from the terms and objects of such provisions, evidently intended to be applicable only to recent arrears of rent due in the course of the current year or immediately after the close of it; and it is hereby declared, that the summary inquiry and process authorized, shall not be applied to any arrear of rent, or other demand which may have been due more than a complete year

before the delivery of the petition of arrest and application for such summary inquiry and process: Provided, however, that this restriction shall not be considered to preclude the collectors from including in the adjustment of recent arrears in such cases any arrear which may be found due beyond the period of one year, if the same shall appear equitable.—Reg. II., 1805, sec. iv.

### POWERS OF LANDHOLDERS OVER NATIVE AGENTS.

74. The foregoing provisions, for the arrest and confinement of defaulters, are likewise declared to extend, so far as they can be applied, to the sudder and mofussil amlah, or native agents of every description, employed by the landholders and farmers in the management of their estates or farms, or collection of their rents. Any landholder or farmer having demands upon such agents whilst in his service, or immediately after their resignation or dismission from his service, whether for money in their hands, or for accounts which they may refuse to render, or for any matter relating to the discharge of their respective trusts whilst in his employ, may proceed against them for their arrest and confinement, in like manner as he is authorized to proceed against defaulting under-tenants; and the collectors are to take the same measures for the aid of the landholders and farmers in such cases, as they are directed to take for the recovery of arrears from defaulting tenants.—Reg. VII., 1799, sec. xx.; Reg. V., 1800, sec. xix.; Reg. XXVIII., 1803, sec. xxxvii.

### SUMMARY SUITS.

NOTE.—For the powers of collectors in respect of summary suits regarding rent, while they are engaged in making or revising settlements, see "SETTLEMENT," paragraph 386.

75. From and after the date of the promulgation of this Regulation [1st November, 1831], it shall not be competent to the judicial authorities to take cognizance of summary suits or claims relating to arrears or exactions of rent, unless the complaint be preferred as a regular suit, in the mode prescribed by Regulation IV., 1793, and the corresponding enactments.—Reg. VIII., 1831, secs. ii., iii.

76. Summary claims connected with arrears or exactions of rent shall be preferred in the first instance to the several collectors of land revenue, whose decisions in such cases shall be final, subject to a regular suit, unless the ground of appeal be the irrelevancy of the Regulation to the case appealed, on which ground only the commissioner of revenue for the division is authorized to receive an appeal, if preferred to him within one month of the date of the summary decision. The commissioner of revenue, after receiving the appeal, and calling for the proceedings in the case, shall dismiss the same with costs, if the stated ground of irrelevancy shall not appear to be established. If, on the other hand, the case should appear to be of a nature not properly cognizable as a summary suit, the commissioner of revenue shall reverse the irregular judgment given by the collector, and pass such further orders thereupon as he may think just and proper, in pursuance of the Regulations in force, which may be applicable to the circumstances of the case.—Reg. VIII., 1831, sec. iv.

77. In modification of the existing rules regarding summary suits, it is hereby provided, that the summary jurisdiction to be exercised by collectors shall be restricted to the object of enforcing payments of the rents paid in past years, to the entire exclusion of all claims to increase, except on proof of bonâ fide written engagements to such increase.—Reg. VIII., 1831, sec. x.

78. It shall be competent to a collector to whom a summary suit may be preferred, to reject the same by an order to be written on the back of the petition, to be returned to the party, referring him to a regular suit; and the said petition shall be received by the judicial authorities as a petition of plaint in like manner as if the claim had been originally preferred to them in the form of a regular suit.—Reg. VIII., 1831, sec. ix., cl. 1.

79. Provided, however, that it shall be competent to a commissioner of revenue, on summary appeal, to direct the collector to receive and decide such suits, as well as to give such general instructions relative to the admission or rejection of suits referring to the matters in question, as local or other circumstances may in his judgment render necessary.—Reg. VIII., 1831, sec. ix., cl. 2.

80. The collector shall possess the same powers as are vested in the Civil Courts for causing the attendance of parties and witnesses, and generally for all process which it may be necessary to issue in such suits; except the execution of decrees, respecting which the rule in paragraph 90 is to be observed.—Reg. XIV., 1824, sec. iv.

81. It shall be competent to the parties in all suits, the cognizance of which is hereby vested in the collectors of revenue, to employ any agent, vakeel, or representative, whom they may think proper to appoint, to act and plead in their behalf, provided such agent, vakeel, or representative, be duly empowered by the parties. The rate of remuneration to such agent or vakeel shall be left to be adjusted between himself and his constituent; but no greater sum shall be awarded on this

account for costs payable by the party against whom the judgment may be passed, than what may be deemed by the collector a fair equivalent for the attendance of such agent.—Reg. XIV., 1824, sec. vi.

82. No other pleadings shall be required from the parties in such suits than a plaint and answer; provided that if the parties should, at any time, wish to file an amended plaint, or an amended answer, or any explanatory motion, such subsidiary pleadings shall be received.—Reg. XIV., 1824, sec. vii.

83. Summary claims of the nature above adverted to, which may be preferred to a collector conformably to paragraph 76, shall be written on paper bearing a stamp of one-fourth the value which would have been required had the claim been instituted in any Civil Court as a regular suit; provided, however, that the collector shall have a discretion to receive a complaint on paper, bearing a stamp of eight annas, from any independent talookdar, farmer, or ryot, if the complainant is bonâ fide unable to pay the price of the prescribed stamp, or if the collector should for other reasons consider the indulgence proper.—Reg. VIII., 1831, sec. vii.

84. The mokhtarnamas or vakalutnamas, and the pleadings and final decree in such suits, shall be written on stamped paper of the value of eight annas, whatever may be the amount of the suit; and no fees shall be taken on exhibits tendered in the cause, or for the witnesses required by the parties, nor shall it be necessary for the parties to present a written motion on stamped paper for the filing of such exhibits, or for the summoning of such witnesses.—Reg. XIV., 1824, sec. viii.

85. It shall be competent to the collectors to hear and determine such suits in whatever part of the district they may occasionally be or reside, provided that every hearing and decision be in public cutcherry, or in some other place open to the public, and in the presence of the parties, or of their constituted agents or vakeels, if in attendance.—Reg. XIV., 1824, sec. ix.

86. Whenever, from the great accumulation of suits connected with claims to arrears or exactions of rent, or from any other cause, it shall seem advisable, the several collectors are hereby authorized, with the previous sanction of the commissioner of the division, to refer to the tehsildars within their respective districts any such claims, with a view to their being adjusted and reported upon; and the several tehsildars shall be guided in the performance of this duty by the rules which were declared applicable to the proceedings of collectors in similar references, prior to the enactment of Regulation XIV., 1824.—Reg. VIII., 1831, sec. xiii.

87. It shall be the duty of the Boards of Revenue to obtain from the collectors such periodical returns regarding the execution of their duty in the decision of summary suits as may appear best calculated to satisfy these Boards that no delay occurs in the performance of it.—Reg. V., 1812, sec. xxii.

88. In furnishing periodical reports of suits decided and depending, which may have been instituted under this Regulation, and generally in the performance of other duties connected with its provisions, the several collectors shall be guided by the instructions which they may receive from the revenue commissioners or the Sudder Boards of Revenue.—Reg. VIII., 1831, sec. xviii.

89. The rules contained in Section XXXI., Regulation VII., 1822 ("SETTLEMENT," paragraphs 409, 410), are hereby declared applicable to the decisions passed by collectors under the provisions of this Regulation.—Reg. VIII., 1831, sec. xix.

90. Such part of Clause Third, Section XXIII., Regulation VII., 1822 ("SETTLEMENT," paragraph 394), as relates to the execution of awards in cases where a specific sum of money shall be adjudged to be due, or any cost or damage be awarded, is declared equally applicable to the awards which may be made by collectors under this Regulation.—Reg. VIII., 1831, sec. xx.

91. Assistants to collectors are not competent to exercise the powers vested in collectors by this Regulation, unless specially empowered by the Governor-General in Council. When thus empowered, they shall be competent to decide suits referred to them by the collector, subject always to such revision or control on his part as he may see fit to exercise, and subject ultimately to an appeal to the commissioner of revenue under the provisions of paragraph 76.—Reg. VIII., 1831, sec. xxi.

### SALES IN EXECUTION OF SUMMARY DECREES, OR OF A DEFAULTER'S REAL PROPERTY.

92. All sales in execution of summary decrees for rent, and all sales of a defaulter's real property, under the provisions of paragraph 68, are to be made in public by the collector, deputy collector, or head assistant to the deputy collector of the district, under the rules applicable to the sale of putnee tenures contained in Section IX., Regulation VIII., 1819; and Section XVI., Regulation VII., 1832. Ten days' notice shall be given of such sales by advertisement, to be stuck up at the cutcherry of the Zillah Court or local Adawlut, and that of the collector. If the lands subject to sale shall be situate in two or more collectorates, the sale is to be made as provided for in paragraphs 113 to 124.—Act VIII., 1835; Act VI., 1853, sec. x.

REGULAR SUITS.

93. If any gomashtah, agent, servant, or officer of any person vested with the power of distraint, shall attach or cause to be sold the property of any under-farmer, ryot, or dependent talookdar, zemindar, or putteedar, or their sureties, or do any act in the attachment or sale of it contrary to this Regulation, the party aggrieved shall have his remedy against the principal of the offender for such illegal attachment, sale, or act, whether the same took place or was done by the orders or with the knowledge of such principal or not. Provided that nothing herein contained shall extend to subject a distrainer to imprisonment, in the event of any person deputed by him to attach property entering the zenana or apartments of women, or breaking open a dwelling-house, in opposition to the prohibition contained in paragraph 26, unless it shall be proved that such acts were done by the order, or with the consent or knowledge of such distrainer.—Reg. XVII., 1793, sec. xxxii.; Reg. XLV., 1795, sec. xxix.; Reg. XXVIII., 1803, sec. xxix.

94. But neither the landholders and farmers themselves, nor their agents, are to be made liable to the penalties prescribed for a deviation from any part of the Regulations relative to the distraining for land-rents, unless such deviation shall clearly appear to have been wilful and intentional, or to have proceeded from gross neglect and inattention to the rules prescribed for their guidance. Where no such wilful deviation or gross neglect shall appear, satisfaction to the party aggrieved for the actual damage sustained by him, from the prescribed process not having been strictly adhered to, shall alone be adjudged against the distrainer; nor shall any judgment be given for such damages, if the distrainer can show that he tendered sufficient amends to the party injured as soon as the irregularity in his proceedings was discovered, or at any time before the action for damages was brought against him, and that such tender was refused.—Reg. VII., 1799, sec. ii.; Reg. V., 1800, sec. ii.; Reg. XXVIII., 1803, sec. ii., cl. 2.

95. Nothing herein contained shall be construed to prohibit any person whose property may have been distrained or sold from instituting a suit in the Civil Courts against the distrainer for any injury which they may think they have hereby sustained; nor to prevent the several descriptions of landholders or farmers of land, or other persons vested with the power of distraint, from prosecuting in the Civil Courts for arrears due to them from any under-farmer, ryot, or dependent talookdar, dependent zemindar, putteedar, or their sureties, should they prefer the last-mentioned mode of procedure to distraining and selling the personal property of the defaulter, or in the cases authorized, of his surety, for the recovery of the arrears.—Reg. XVII., 1793, sec. xxxiii.; Reg. XLV., 1795, sec. xxxi.; Reg. XXVIII., 1803, sec. xxx.

96. Persons confined under paragraph 66, and desirous of bringing the demand upon them to a regular judicial investigation and decision in the Civil Courts, are at liberty to institute a suit against the landholder or farmer, at whose instance they may have been confined, for this purpose; and should the amount denied by them be found upon trial not to have been due, they shall receive a judgment for full costs and damages against the party by whom it may have been claimed. They shall also be entitled to a similar judgment, with interest at the rate of one per cent. per mensem upon the amount paid by them, and found not to have been justly due from them, if they shall discharge the demand upon them with a view to obtain their release from arrest, or from subsequent confinement, under the preceding paragraph, and shall afterwards, on a suit in the Civil Court for recovery of the amount so paid, establish that it was not due from them at the time of the demand.—Reg. VII., 1799, sec. xvi.; Reg. V., 1800, sec. xv.; Reg. XXVIII., 1803, sec. xxxiii.

97. Regular suits for the recovery of arrears of rent may be instituted, in the first instance, for the more formal investigation of the merits of the case, either before the moonsiffs or in the Zillah and City Courts, according to the amount at issue, and the zillah and city judges are hereby enjoined to encourage, as much as possible, that mode of procedure, as well in the suits above adverted to, as in all other claims for arrears of rent which may be cognizable by summary process under the existing rules, whenever it may, in their opinion, lead to a more prompt and satisfactory determination of the points at issue.—Reg. II., 1821, sec. iv.

98. With a view to give additional encouragement to parties having claims to arrears of rent to prefer regular suits on account of the same, it is hereby declared that the plaint in all such regular suits, if under the existing Regulations they would have been cognizable as summary suits, may be written on paper bearing a stamp of one-fourth the prescribed value; provided, however, that this rule shall not be considered applicable to a suit instituted with a view to set aside a previous summary decision, which suit shall be subject to the ordinary provisions for the payment of stamp duty.—Reg. VIII., 1831, sec. viii.

99. All suits that may be instituted under these rules are to be heard and determined previous to any other suits which may be depending.—Reg. XVII., 1793, sec. xxxiv.; Reg. XLV., 1795, sec. xxxii.; Reg. XXVIII., 1803, sec. xxxi.

### REGULAR SUITS IN APPEAL FROM SUMMARY DECISIONS.

100. Proprietors and farmers of land, whose claims to arrears of rent may be rejected by the collector on the summary inquiry, are also at liberty to institute a regular suit in the Dewanny Adawlut for the recovery thereof; and if, on trial, the amount claimed by them shall be found to have been due when the summary judgment was given against them in the first instance, they shall be entitled to receive back any sums paid by them for costs or damages under such judgment, and to a decree from the Zillah Court for the arrears of rent due to them, with interest at the rate of one per cent. per mensem, and full costs incurred by them, as well on the summary inquiry as on the regular suit.—Reg. VII., 1799, sec. xvii.; Reg. V., 1800, sec. xvi.; Reg. XXXVIII., 1803, sec. xxxiv.

101. Any person who may be dissatisfied with the summary judgment of a collector, and may be desirous of a more full and formal investigation of the merits of the case, shall be at liberty to prefer a regular suit in the local Zillah or City Court; and on the institution of such suit the proceedings held on the summary inquiry shall be filed on the record of the regular suit. —Reg. XIV., 1824, sec. x.; Reg. V., 1812, sec. xxiii.

102. Such suits shall be cognizable according to their amount by the principal sudder ameens, sudder ameens, and moonsiffs.—Reg. XIV., 1824, sec. x.; Reg. VII., 1832, sec. x.

103. The existing Regulations not providing any limited period beyond which the investigation of a regular suit to contest the justice of a summary award, in matters connected with arrears or exactions of rent, shall be admitted, it is hereby declared that the admission of regular suits to contest the summary awards of the revenue authorities in such matters shall be restricted to the period of one year from the date of the delivery, or of the tender to the party against whom the award is made, of the collector's decision.—Reg. VIII., 1831, sec. vi.

104. Provided, moreover, that in all cases of appeal, the records of cases which can be ascertained to have been decided concerning the same cause of action, and regarding any matter cognizable under this Regulation, shall be produced and read, and that the decision in appeal shall be considered to be equally applicable to all such suits, though not appealed. Provided, however, that in all such cases due notice shall be given to the parties concerned, to attend, either in person or by vakeel, to prosecute or defend their several interests.—Reg. VIII., 1831, sec. xvii.

### JURISDICTION OF REVENUE COURTS.

105. Within the British territories under the Government of the East-India Company, no person whatever is or shall be, by reason of place of birth or by reason of descent, in any proceeding whatever connected with arrears or exactions of rent, excepted from the jurisdiction of the Revenue Courts, anything in Act No. XI. of 1836 contained notwithstanding.—Act III., 1839, sec. i.

106. No such proceeding which may have been instituted before the passing of this Act in any such court [18th February, 1839], and no decree which may have been passed before the passing of this Act in any such proceeding by any such court, shall be treated as invalid by reason of the place of birth, or by reason of the descent of any party to such proceeding or to such decree.—Act III., 1839, sec. ii.

### JURISDICTION OF MOONSIFFS.

107. Paragraph 95, which authorizes persons whose property may have been distrained to sue for any injury sustained thereby in the Civil Courts, and allows landholders and farmers of land to sue defaulters or their sureties in the Civil Courts for arrears of rent, instead of distraining their property, if such mode of procedure be preferred by them, was not meant to restrict the native tribunals from taking cognizance of any suits of the above description according to their amounts, whether preferred to them in the first instance, or referred to them by the judges of the Dewanny Adawlut.—Reg. VII., 1799, sec xiii.; Reg. V., 1800, sec. xiii.; Reg. XXVIII., 1803, sec. xxx.

108. In those districts in which moonsiffs may be appointed under the provisions of Regulation V., 1831, those moonsiffs shall be competent, in addition to the authority now possessed by

moonsiffs generally of receiving, trying, and deciding claims to arrears of rent preferred by regular suit, in like manner to dispose of all claims preferred by under-tenants or others who may be desirous of resisting the distraint of their property or the attachment of their persons, or who may prefer a claim for damages on account of such acts. In all cases cognizable by them, they are to hear and determine suits respecting rent or revenue before any others that may be depending.—Reg. VIII., 1831, sec. xi.; Reg. VII., 1799, sec. xiii.; Reg. V., 1800, sec. xiii.

109. Within the said territories no person whatever shall, by reason of place of birth, or by reason of descent, be, in any civil proceeding whatever connected with arrears or exactions of rent, excepted from the jurisdiction of the courts of the moonsiffs.—Act III., 1839, sec. iii.

### SETTLEMENT OF JURISDICTION WHEN SUITS RELATING TO THE SAME MATTER ARE BROUGHT BOTH BEFORE THE COURTS AND COLLECTORS.

110. Inconvenience having been experienced from the circumstance of two or more claims regarding the same matter having been preferred to different tribunals, it is hereby provided, that if it should be brought to the notice of the judge that a suit regarding any matter cognizable under this Regulation is pending in his or in any of the courts subject to his control, in a matter regarding which a suit had been previously instituted before the collector, the judge shall direct such suit to be transferred to the collector, who in such case is authorized and required to decide both suits.—Reg. VIII., 1831, sec. xiv.

111. In like manner, if it be brought to the notice of the collector that a suit is pending before him in a matter regarding which a regular suit has been previously filed in the Judge's Court, he shall suspend his proceedings, and forward the record of the case to the judge, who will make over both cases to some tribunal subject to his authority, or dispose of the cases himself.—Reg. VIII., 1831, sec. xv.

112. It shall further be the duty of the judge, and of all the judicial authorities subject to his control, in all practicable cases, to refer suits concerning the same cause of action, and regarding any matter cognizable under this Regulation, to be decided by one and the same tribunal, and the subordinate judicial authorities are required to suspend their proceedings, and to submit them to the judge, whenever they may have reason to know that another cause concerning the same matter, relating to arrears or exactions of rent, is pending before another court, or as a summary suit before the collector.—Reg. VIII., 1831., sec. xvi.

### JURISDICTION IN SUITS, AND POWER OF SALE WHEN THE LANDS ARE SITUATED IN TWO OR MORE DISTRICTS, OR IN THE DISTRICT OF AN INDEPENDENT DEPUTY COLLECTOR.

113. Whereas doubts may be entertained as to who ought to exercise jurisdiction in summary suits relating to arrears or exactions of rent, and to possess the power of selling lands in execution of such decrees, when lands situate in one zillah or other district of one collector form part of an entire estate paying revenue to the collector of another district; and whereas the same doubts may arise in respect of sales of a defaulter's real property, under the provisions of paragraph 68, and also in cases where lands held in putnee, or other tenure at one entire rent, are situate in two or more collectorates,—in order, therefore, to remove such doubts, and to define who are the proper officers to exercise such jurisdictions in cases where lands are situated in a district assigned to an independent deputy collector, and to prevent any such decision or sale already made from being held invalid, upon the ground of its having been made by an officer of a wrong district, it is enacted as follows:—Act VI., 1853, preamble.

114. If the lands which may be the subject of any such sale, or to the rent of which any such suit may relate, be all situate in one collectorate, the collector of such collectorate is the collector to conduct the sale, or to hear and decide the suit. If one talook or tenure shall comprise lands situate in two or more collectorates, or if any lands situate in two or more collectorates be held under one lease or engagement, or at one entire rent, the collector in whose collectorate the greater part of such lands shall be situate, is the collector to conduct the sale of such talook, or tenure, or of such lands, and to hear and decide any summary suit relating to arrears or exactions of rent in respect thereof.—Act VI., 1853, sec. i.

115. If a collector, to whom application shall be made to exercise any of the powers above mentioned, shall entertain any doubt as to whether the lands, or the greater part of them, are situate within his collectorate, he shall report the case for the order of the Board to which he is subordinate, and if ordered by such Board to proceed in the matter, such order shall be conclusive upon the question of his jurisdiction.—Act VI., 1853, sec. ii.

116. The word "collectorate" in this Act means the zillah or other district to which a collector is appointed, and no lands situate beyond the limits of such zillah or district shall be deemed to be situate within the collectorate, by reason of their forming part of an estate paying revenue to the collector thereof.—Act VI., 1853, sec. iii.

117. An independent deputy collector may, within his deputy collectorate, exercise all the powers and jurisdictions of a collector with which he may be intrusted, in the same manner and to the same extent as a collector may do within his collectorate, and with reference to the exercise of such powers and jurisdictions, his deputy collectorate shall be deemed a collectorate, and he shall be deemed to be a collector within the meaning of this Act.—Act VI., 1853, sec. iv.

118. An independent deputy collector is an officer appointed by Government to act as deputy collector, independently of a collector, whether his office is one for the receipt of revenue or not. A deputy collectorate is the district within which an independent deputy collector is directed by Government to act.—Act VI., 1853, sec. v.

119. In cases of sales by an independent deputy collector, under the above-mentioned Regulations or Act, any notice thereby required to be stuck up at the cutcherry of the collector may be stuck up at the cutcherry of the deputy collector.—Act VI., 1853, sec. vi.

120. An independent deputy collector may exercise the powers assigned to him over any part of his deputy collectorate in public cutcherry, in whatever part of his deputy collectorate the same may be situate or held.—Act VI., 1853, sec. vii.

121. Any notice required to be given by advertisement to be stuck up at the cutcherry of the Zillah Court or local Adawlut, shall be stuck up at the Zillah Court or local Adawlut within the jurisdiction of which the lands to be sold, or the greater portion of them, as the case may be, shall be situate.—Act VI., 1853, sec. viii.

122. No order or decision already made in any summary suit, and no sale which has not been questioned before a Court of competent judicature before the passing of this Act [30th April, 1852], on the ground of having been decided or made by a collector of land revenue, his deputy or duly authorized assistant, having no jurisdiction therein, shall be liable to be annulled or disputed on that ground.—Act XXII., 1852.

123. No order, decision, or sale, made in the discharge of any of the duties aforesaid, before the passing of this Act [15th April, 1853], shall be disputed, or deemed invalid, upon the ground that the collector, deputy collector, or other officer making the same, was not the collector, deputy collector, or officer of the proper district; or upon the ground that the cutcherry at which notice of such sale was given was not the cutcherry of the proper district, unless proceedings shall, previously to the passing of this Act, have been commenced for the purpose of disputing the validity of such order, decision, or sale, upon such ground.—Act VI., 1853, sec. ix.

124. Paragraphs 112 to 118 shall not extend to any case in which a petition for the sale of any saleable tenure was presented on the 1st day of Bysack, 1260, of the Bengal era, nor to any case in which any proceedings were pending at the time of the passing of the said Act.—Act IX., 1853.

## SCHEDULE.

I, A. B., collector of ——— zillah ——— (or exercising the powers of a collector in virtue of the powers vested in me by Act No. I., 1839), appoint you, C. D., commissioner for the sale of property distrained for the recovery of arrears of rent, in the manner prescribed by the Regulations of Government. You are to reside at E., in pergunnah F., and are to exercise the authority vested in you by these Regulations, or by any others which may be hereafter transmitted to you for your guidance, in strict conformity thereto; and are to keep a regular and complete record of your proceedings, to be produced when called for by me, or by the courts of justice. You are hereby authorized to remunerate yourself for your trouble by deducting and appropriating ——— per centum on the amount of the proceeds of sale.—Act I., 1839, Schedule.

# LAND REVENUE.

## DIVISION OF ESTATES.

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# LAND REVENUE.

## DIVISION OF ESTATES.

1. The division of every zemindary, independent talook, or other estate paying revenue immediately to Government, which may be ordered to be divided into two or more distinct estates, and the apportioning of the fixed jumma on the whole of the estate on the several shares, are to be executed under the superintendence of the collector of the district in which the estate may be situated.—Reg. XIX., 1814, sec. iii.

2. If all the proprietors of a joint undivided estate shall be desirous to have their estate divided into two or more separate estates, they are to make a written application for that purpose to the collector of the district, under their seals and signatures, and attested by four credible witnesses, specifying the shares which belong to them respectively, and whether they are desirous of having separate possession of their respective shares, or whether any two or more of them propose to hold their shares as a joint estate. On receipt of the written application above noticed, the collector shall proceed to divide the estate into the number of shares requested, reporting the same to the Board of Revenue. All authorized expenses incurred in making the division are to be borne by the proprietors, in the proportion which the jumma of their respective shares, after the division has been completed, may bear to the jumma of the whole estate.—Reg. XIX., 1814, sec. iv., cl. 1.

3. If one, two, or more of the proprietors of a joint estate held in common tenancy shall be desirous to have separate possession of his or their respective share or shares, or if two or more of them shall be desirous to have their shares separated and to hold them as a joint estate, they are to make a written application for that purpose to the collector, under their seals and signatures, and attested by four credible witnesses. The collector, on receipt of the application, shall publish an advertisement, notifying the same to all parties concerned, and specifying that he shall proceed to make the division applied for in fifteen days from the date of the publication of the advertisement, unless any person or persons in possession of the estate, or any part thereof, shall, before the expiration of that time, deny, by a writing under his or their seals and signatures, and attested by two credible witnesses, the right of such claimant or claimants to the share or shares so claimed by him or them; in which case, the collector is not to proceed to the division until the disputed title be established in a Court of Justice, or admitted by the party or parties so disputing it, by a writing to that effect under his or their seals and signatures, and attested by four credible witnesses.—Reg. XIX., 1814, sec. iv., cl. 2.

4. In the event of no denial being offered to the claim for separation in the form stated, and within the period limited in the foregoing paragraph, the collector shall proceed to make the division applied for in the mode hereafter described, reporting the same for the information of the Board of Revenue; and all authorized expenses incurred in making the division are to be borne by the proprietors at large, in the proportions which the jumma of their respective shares, after the division has been completed, shall bear to the jumma of the whole estate. This last rule, however, is not to be understood to preclude the parties concerned from entering into a private adjustment among themselves of the proportions in which such expenses shall be severally borne by them; and whenever the whole amount demandable on that account shall be tendered to the collector by one or more of the parties, he shall receive the same accordingly; and on the contrary, if the amount be not so tendered, he is to enforce the rule as above laid down, and is to levy the amount (if it be not paid) by the same process against the sharer or sharers failing in the payment of their proportions as is prescribed for levying arrears of revenue.—Reg. XIX., 1814, sec. iv., cl. 3.

5. The whole of the above provisions for the division of estates held in common tenancy are to be considered equally applicable to the separation of portions of estates consisting of distinct mehauls. Reg. XIX., 1814, sec. iv., cl. 4.

6. Whenever the Courts of Justice may pass a decree awarding to any person the proprietary right in a portion of an estate paying revenue to Government (whether fractional or consisting of specific lands), and may issue a precept to the collector requiring him to divide the estate, and (provided it be not held khas or let in farm by Government) to put the parties in possession of the shares to which they may be entitled under the decree, they shall make it a general rule to direct, at the same time, that the party or parties who may have withheld the right so decreed shall defray the

whole of the expense which may be incurred in the subsequent process of dividing, separating, and giving possession of, and apportioning the public revenue on the portion of the estate or lands so decreed. Provided, however, that if any special reasons shall appear for a deviation from this general rule, the Courts shall be at liberty to direct the expense in question to be defrayed by all or any of the parties to the decree, in such proportions as the Court passing the decree may, from a consideration of the particular circumstances of the case, deem equitable. Copies of all orders which the Courts may pass under this rule are invariably to be transmitted to the collector for his guidance, together with the precept which the Court may issue to him, requiring him to divide the estate, and to put the parties in possession of the shares to which they may be entitled under the decree.—Reg. XIX., 1814, sec. v.

7. If two or more estates that may have originally formed specific and ascertained portions of the same zemindary, talook, or chowdrai, shall come into the possession of one person, or if one, two, or more persons shall possess two or more shares of any such estate, such person or persons shall be entitled to have such shares united and to hold them as one estate. Application for the union of estates is to be made to the collector of the zillah in writing, under the seal and signature of the proprietor or proprietors, and attested by two credible witnesses; and the collector (provided he see no objection) shall comply with the application, and cause the necessary entries to be made in the records of his office, reporting the circumstances to the Board of Revenue.—Reg. XIX., 1814, sec. vi.

8. When a division of an estate shall be ordered to be made, each of the portions into which the property shall be directed to be divided shall be formed of entire and (as far as the situation of the lands and other local circumstances may admit) contiguous mehauls or villages, so that each estate may be as compact as possible. Provided that if the property so ordered to be divided shall not consist of a sufficient number of villages to admit of one or more whole village or villages being included in each estate, the division of the village or villages of which the property may consist is to be made, so as to render each estate as compact as possible.—Reg. XIX., 1814, sec. vii.

9. The public revenue shall be assessed on each estate into which the property shall be ordered to be divided in conformity with the rules prescribed in Regulation I., 1793, with respect to estates situated in the provinces of Bengal, Behar, and Orissa; Regulation XXVII., 1795, in the province of Benares; Regulation XXV., 1803, in the Ceded Provinces; Regulation IX., 1805, in the Conquered Provinces; and with Regulation XII., 1805, in the province of Cuttack (see "SETTLEMENT"); but in selecting the mehauls or villages to be included in each separate estate, the advantages or disadvantages arising from situation, the vicinity of roads or navigable rivers, the nature and quality of the soil and produce, the quantity of waste land, the depth at which water may be procurable, the number of tanks, the state of the embankments and water-courses, and every other local circumstance affecting the present or likely to influence the future value of the lands, are to be duly considered, and the mehauls or villages to be included in each estate fairly and impartially selected accordingly.—Reg. XIX., 1814, sec. viii.

10. If a dwelling-house belonging to one sharer shall be situated in a mehaul or village which may be included in the estate of another, the proprietor of such house shall be at liberty to retain it, with the offices, buildings, and ground immediately attached to it, upon paying to the proprietor of the mehaul or village an equitable rent for the ground; and the limits of the ground, and the rent to be paid for it, shall be particularised in the paper of partition.—Reg. XIX., 1814, sec. ix.

11. Tanks, reservoirs, water-courses, and embankments, shall be considered as attached to the land for the benefit of which they were originally made. In cases in which, from the extent, situation, or construction of works of this nature, it shall be found necessary to continue them the joint property of the proprietors of two or more of the estates, the paper of partition is to specify, as far as circumstances may admit, the proportion of the benefit which each estate is entitled to derive therefrom, and of the expense of the repairs with which it is to be charged.—Reg. XIX., 1814, sec. x.

12. Places of worship that may have been held in common previous to the division of a zemindary or other estate, shall be continued on the same footing, unless the parties shall otherwise agree amongst themselves, in which case they are to signify their determination, in writing, to the aumeen, who shall insert it in the paper of partition.—Reg. XIX., 1814, sec. xi.

13. When an estate shall be ordered to be divided, the collector shall appoint a creditable aumeen to make the division, who shall receive a per centage (as hereafter specified) on the amount of the jumma of the whole estate, as a remuneration for his trouble and the expense of establishment.—Reg. XIX., 1814, sec. xii.

14. The collector is empowered and directed to administer the following declaration to the aumeen previous to his proceeding to make the division:—

"I, A. B., appointed to make the division of the estate of ———, in the zillah of ———, solemnly declare, that I will fairly and impartially, and as expeditiously as may be practicable,

make the division of the property, and apportion the public revenue upon each distinct estate into which it is directed to be divided, to the best of my knowledge and judgment, according to the Regulations passed by the Governor-General in Council; that I will not, directly or indirectly, receive, or allow any other person to receive, any fee, present, or reward whatever, from any of the sharers, or any persons on their behalf, on account of the division, or any matter connected therewith; that I will not derive any advantage or emolument from my appointment, excepting such as may be expressly allowed to me and be authorized by this Regulation; and that I will deliver to the collector all such papers and accounts as may come into my possession respecting the estate which I am appointed to divide."—Reg. XIX., 1814, sec. xiii., cl. 1; and Reg. XVIII., 1817, sec. ii.

15. If the aumeen shall be convicted before the magistrate of the zillah of receiving or allowing any other person to receive, directly or indirectly, any money or effects, or other property, from the sharers, or from any person or persons on their behalf, in opposition to his affirmation, he shall be sentenced to pay a fine to Government of three times the amount of the money or value of the property so received by him, or by any other person with his permission, and to imprisonment not exceeding six months; and all prosecutions before the magistrate under this rule shall be for a criminal misdemeanour at the instance of the collector of the district, through the vakeel of Government. It is, however, at the same time hereby further declared, that the aumeen shall be also liable to a suit for the same offence in the Dewanny Adawlut of the zillah, and shall on conviction be compelled to restore the money or property to the party from whom it may have been received, with all costs to the party prosecuting, and be imprisoned until he shall make good the decree, or the amount of it shall be liquidated by the sale of his property.—Reg. XIX., 1814, sec. xiii., cl. 2.

16. The collector is to deliver to the aumeen a sunnud of appointment under his official seal and signature, in which are to be specified the name of the estate, the names of the different sharers, their respective proportions, the number of separate estates into which the property is to be divided, and the shares included in each estate, together with a copy of the Regulations under which he is to make the division, and of any entries in the official records which may relate to the property to be divided. —Reg. XIX., 1814, sec. xiv.

17. It shall be lawful for the Sudder Board of Revenue at Calcutta, with the sanction of the Governor of Bengal, and for the Sudder Board of Revenue at Allahabad, with the sanction of the functionary exercising the authority of Government in the North-Western Provinces, to fix the remuneration of an aumeen, or other person employed to effect a partition of an estate under the Regulations enacted for that purpose, and to cause the same to be levied from the parties concerned in the same manner as an arrear of revenue, at such periods, and in such proportions as the said boards may severally think fit.—Act XI., 1838, sec. ii.

18. Upon the arrival of the aumeen on the spot, he is to survey in person the different parts of the property, so as to enable him to select the lands to be included in each estate, in conformity to the rules prescribed in paragraphs 8 to 12.—Reg. XIX., 1814, sec. xvi.

19. The proprietors, or their local naibs or representatives, are to furnish the aumeen with the accounts of the gross produce of each mehaul and village, and all other accounts or information requisite to enable him to assess the public revenue on each of the estates into which the property is to be divided, in conformity to the rules herein prescribed.—Reg. XIX., 1814, sec. xvii., cl. 1.

20. The proprietors, or their local naibs or representatives, are to swear to the truth of the accounts before the aumeen; or if they shall be of the description of persons whom the Courts of Judicature are empowered to exempt from taking oaths, the collector is to authorize the aumeen to receive from them a solemn declaration to the truth of the accounts. If the proprietors shall omit to furnish the required accounts, the persons withholding them shall be liable to such daily fine until they produce them, as the Board of Revenue may judge it proper to impose, upon a consideration of the case and their situation and circumstances in life, and the amount of the fine shall be levied by the collector by the same process as is prescribed for levying arrears of revenue.—Reg. XIX., 1814, sec. xvii., cl. 2.

21. The proprietors, or their local naibs or representatives, are likewise to cause the putwarries and other zemindary officers to attend the aumeen to explain the accounts, and furnish him with such information as he may require for dividing the estate and apportioning the public jumma, under the penalty of being fined in the same manner as for omitting to produce their accounts. Putwarries refusing to deliver their accounts, or otherwise acting contrary to the rules enacted for their guidance, shall be proceeded against according to the Regulations.—Reg. XIX., 1814, sec. xvii., cl. 3.

22. When the aumeen has completed the division of the property and allotted the public revenue on each estate, he is to submit to the collector the papers of the division and allotment, which are to specify the names of the mehauls or villages included in each separate estate into which the property may have been divided, the gross produce of each mehaul and village for the three years preceding the year in which the division may be ordered to be made, and the proportion of the public jumma

which he may have assessed thereon, with such observations regarding the manner in which he may have selected the lands included in each estate, and the accounts from which he may have apportioned the public revenue of them, as may be necessary for the information of the collector, together with a detail of the adjustment which he may have made respecting the tanks, places of worship, or other matters specified in paragraphs 10 to 12.—Reg. XIX., 1814, sec. xviii.

23. The collector shall examine the documents which may be delivered to him by the aumeen, and after receiving any objections or remarks which may be offered to him by the sharers in person or by their vakeels, he shall draw out a paper of partition, specifying the mehauls or villages included in the several estates into which the property may have been divided, the gross produce of each mehaul or village, the allotment of the public jumma upon each, the name or names of the proprietor or proprietors of each estate, and where an estate is to be held as the joint property of two or more persons, their respective shares in the estate, together with the stipulations which may have been made respecting any of the matters mentioned in paragraphs 10 to 12, and transmit a copy of the paper to the Board of Revenue, with such observations as may be necessary to enable them to judge whether the division of the property and the allotment of the jumma on each estate into which it may have been divided have been made agreeably to the Regulations.—Reg. XIX., 1814, sec. xix., cl. 1.

24. Previously to forwarding the paper of partition as required by the preceding paragraph, the collector shall furnish the sharers with a copy of it. In the event of the whole of the sharers, by a written declaration under their seals and signatures, and attested by four credible witnesses, declaring their satisfaction with the partition statement so communicated to them, or in the event of none of the sharers offering any objection thereto within fifteen days after they shall have respectively received the copies delivered to them, the collector, on receipt of the general declaration of satisfaction in the former case, or in the latter, on the expiration of the period above stated, shall proceed to put the parties in possession of their respective shares, reporting the same to the Board of Revenue, and submitting to them a copy and translation of the partition statement and allotment of the assessment; but such allotment of the assessment shall not be deemed conclusive until it shall have been confirmed by the Board of Revenue, who are authorized to make any alterations therein which may appear to them necessary for the purpose of carrying into effect the proportionate rule of allotment prescribed in the Regulation cited in paragraph 9. The Boards of Revenue are severally empowered to confirm or make such alterations in the division of the property and the allotment of the public revenue on each estate, or other matters specified in the paper of partition, as may appear to them proper, except in cases of a reduction of the fixed assessment. The Board of Revenue may order further inquiries to be made before they pass their determinations on the division, in cases in which it may appear to them necessary.—Reg. XIX., 1814, sec. xix., cl. 2.

25. In the event of any objections to the partition statement being offered by the sharers, or any one of them, within the period of fifteen days specified in the preceding paragraph, the collector shall not put the parties in possession, but shall transmit without delay a copy and translation of such objections to the Board of Revenue, together with a copy and translation of the partition statement, and of the whole, or such part of the aumeen's report as may be applicable to the points objected to, and such further information as may be necessary to enable the Board to form a satisfactory opinion on the case.—Reg. XIX., 1814, sec. xix., cl. 3.

26. The determination of the Board of Revenue on the paper of partition shall be final; and the collector, on receiving notification thereof, shall put the parties in possession of their respective estates, and immediately make the necessary entries in the records of his office, after comparing the documents delivered by the aumeen with the former entries regarding the estate, and correcting or supplying any errors or omissions which may be discovered in those entries.—Reg. XIX., 1814, sec. xx., cl. 1.

27. No objections from the sharers to the partition communicated to them by the collector in the first instance shall be received by the Board of Revenue, after the prescribed period of fifteen days, without good cause for the delay being shown to their satisfaction.—Reg. XIX., 1814, sec. xx., cl. 2.

28. Whenever the objections to the collector's partition which may be preferred to the Board of Revenue shall clearly appear to be groundless, vexatious, and litigious, it shall be competent to the Board of Revenue to impose such fine upon the defaulter as may be deemed proper, on consideration of the circumstances of the parties and the nature of the case. Such fine shall be recovered by the same process as is prescribed for the recovery of arrears of Revenue.—Reg. XIX., 1814, sec. xx., cl. 3.

29. If any of the sharers in a joint undivided estate shall, [*by withholding the requisite accounts and papers, or*] by any other voluntary act, impede or oppose the division of the estate, when the same may have been ordered and proceeded upon in the mode prescribed by the Regulations, the party or parties so offending shall, on the report of the collector to the Board of Revenue, be liable to such fine as the Board, on consideration of the circumstances of the case, may judge proper to impose, and the fine so ordered shall also be levied in the mode prescribed by the Regulations for the recovery of arrears of revenue. It is hereby further explained, that when-

ever a daily fine may be imposed under any of these rules [*for the purpose of causing the delivery of accounts*], or otherwise, and such fine may be imposed by the collector, the operation of such daily fine (provided it be approved by the Board of Revenue), or of such part thereof as may receive their approbation, shall commence from the date when the fine may have been first notified to the party on whom it is imposed; unless, in any case, it should be otherwise ordered by the Board of Revenue, or be otherwise provided by the original order of the collector.—Reg. XIX., 1814, sec. xxi. (NOTE.—*The above rule, so far as it relates to the production of accounts, has been superseded by the rules in secs. xxviii. to xxxii., Reg. XII.*, 1817, *and Act XX.*, 1848.)

30. In the cases specified in paragraphs 2 and 3, if all the proprietors of the estate to be divided shall agree to make the division themselves, and to allot the public jumma upon each estate and to adjust all other matters respecting the division agreeably to the Regulations, they shall present a petition to that effect, under their seals and signatures and attested by four credible witnesses, to the collector, who shall issue directions to the aumeen accordingly. But the proprietors shall produce the required accounts before the aumeen, and swear or subscribe a solemn declaration to the truth of them; and the division of the lands, and apportioning of the jumma, and every other matter relating thereto, shall be settled in the presence and subject to the inspection of the aumeen, who shall be responsible for the Regulations being in every respect observed. In like manner, if all the proprietors of the estate which may be ordered to be divided in the cases specified in paragraphs 2 and 3, shall agree to refer the division of the estate, and the apportioning of the public jumma and the adjustment of all other matters respecting the division, to an arbitrator or arbitrators, they shall present a petition to that effect to the collector, attested by four credible witnesses, and specifying the name of the arbitrator or arbitrators whom they may choose, and where two or more arbitrators are chosen, the name of the umpire. Upon the receipt of the petition, the collector shall direct the aumeen to cause the parties to execute arbitration bonds. The proprietors shall produce the necessary accounts before the arbitrators, and swear, or subscribe a solemn declaration to the truth of them, before the aumeen; and the division of the lands, and the allotment of the jumma, and every other matter relating thereto, shall be settled by the arbitrator or arbitrators, in the presence and subject to the inspection of the aumeen, who shall be responsible for his or their proceeding according to the Regulations. When the sharers, or the arbitrator or arbitrators in the cases above specified, shall have adjusted the division of the property and the allotment of the public jumma on each estate, and all matters relating thereto, and the whole shall have undergone the revision of the aumeen, he shall submit all the documents and papers specified in paragraph 22 to the collector, who upon the receipt of them shall proceed in the same manner as if the division had been made without the interference of the parties, or the arbitrator or arbitrators; and all the rules herein contained regarding divisions made solely by the aumeen, shall be held applicable to divisions made by the parties or arbitrators under this paragraph.—Reg. XIX., 1814, sec. xxii.

31. All the rules herein prescribed which relate to the expenses incurred in making a partition, shall equally apply to the remuneration of the aumeen who may be appointed to superintend the partitions made by the parties themselves or their arbitrators, under the provisions contained in the preceding paragraph; but with this difference, that the aumeen employed in superintending such private partitions shall only be entitled to receive one-half of the amount of remuneration which the aumeens employed in making public partitions are entitled to under paragraph 17.—Reg. XIX., 1814, sec. xxiii.

32. To remove, as far as may be possible, every inducement to fraud or partiality in the division of landed property, it shall be a rule, that where two or more of the estates shall consist of the same proportions of the whole property divided, the parties entitled to them shall (excepting in the case subsequently specified) draw lots for the divisions in the public cutcherry, before the collector, who shall be held responsible that in drawing the lots no unfair means are practised. Agreeably to this rule, if any landed property shall be ordered to be divided into four estates, each consisting of a four annas share or four-sixteenths, or into three estates, one consisting of an eight annas share or eight-sixteenths, and the other two each of four annas or four sixteenths, of the whole property, after the division and allotment of the public revenue and every other matter relating to the division shall have been finally adjusted, the proprietors of the four shares in the first case, and of the two four annas shares in the second, shall draw lots for the divisions, unless they shall settle amongst themselves which division of the property each party is to receive, and present a petition to the collector under their respective seals and signatures, and attested by two credible witnesses, specifying the divisions which each of them may have agreed to take, in which case the collector shall put them in possession of the divisions which they may respectively select.—Reg. XIX., 1814, sec. xxiv.

33. No butwarra, while in progress, shall be quashed by the Board of Revenue, or by any officer invested with the powers of the said Board, except as hereinafter provided.—Act XX., 1836, sec. ii.

34. It shall be lawful for the said Board, or for any of the said officers, to give six months' notice in writing of an intention to quash any butwarra; and such notice shall be affixed at the offices of the collector of the district and moonsiff of the jurisdiction within which the lands under partition, or part of those lands, may be situated; and if within six months after such notice, no party to the said butwarra shall deliver to the said collector a written declaration that he, the said party, objects to the quashing of the said butwarra, it shall be lawful for the said Board or the said officer to quash the said butwarra.—Act XX., 1836, sec. iii.

35. Every butwarra which, before the 1st day of October, 1836, may have been quashed by the said Board, or by any of the said officers, shall be taken by all Courts to have been lawfully quashed. —Act XX., 1836, sec. iv.

36. To guard against collusion or error in the distribution of the public jumma on landed property which may be ordered to be divided into two or more distinct estates, it is declared, that if it shall be proved to the satisfaction of the Governor-General in Council, within ten years after confirmation of the partition, that the jumma was fraudulently or erroneously apportioned at the time of the division, he reserves to himself the power of ordering a new allotment of the jumma upon the several estates into which it may have been divided, conformably to the principles prescribed in the Regulations cited in paragraph 9, an estimate of the gross produce of each estate at the time of the division to be made agreeably to the best evidence and information which may be procurable respecting it; and further, of ordering the parties whose estates may appear to have been under-assessed to pay the sharers upon whose estates the assessment may have been excessive, the sum of which they may be found to have been defrauded by the over-assessment, and in the event of their omitting to discharge the amount, to cause it to be levied by the collector by the process prescribed for the recovery of arrears of revenue.—Reg. XIX., 1814, sec. xxv.

37. The period of ten years shall be calculated from the date on which the partition of the lands and allotment of the jumma may receive the confirmation of the Board of Revenue; and no such partition and allotment is to be considered to be final or valid (as in substance provided by the existing Regulations), until it shall have been formally and expressly sanctioned by that authority. —Reg. XI., 1811, sec. iv., cl. 1.

38. In like manner, tahoods executed for portions of estates, and the correspondent engagements, shall not be considered to constitute distinct estates until the acceptance of them shall have been formally and expressly sanctioned by the Government or the Board of Revenue.—Reg. XI., 1811, sec iv., cl. 2.

39. If any of the sharers in landed property ordered to be divided, from indisposition or other cause, shall be unable or shall not choose to attend the collector or the aumeen in person, in the cases required, they shall depute a vakeel duly appointed with powers to perform all such acts as they themselves are authorized or required to perform, until the division of the property shall be finally adjusted.—Reg. XIX., 1814, sec. xxvi.

40. If all the sharers in landed property ordered to be divided shall be females not deemed competent to the management of their own estates, or minors, or persons otherwise disqualified for the charge of their own lands, the collector shall report the same to the Board of Revenue, who are enjoined to be careful that the rights of such proprietors are duly attended to in the division. In instances where more proprietors than one possess an undivided estate, and part of such proprietors shall come under any of the descriptions of disqualified landholders above mentioned, having guardians, such guardians shall vote and act for them in all matters relating to the division of their lands.—Reg. XIX., 1814, sec. xxvii.

41. Landed property for the payment of the public revenue assessed upon which engagements have been or may be concluded with the proprietors, and which may be ordered to be divided under these rules, shall remain under charge of the manager appointed by the proprietors of joint undivided estates; and the whole of it shall be held answerable for the payment of the public revenue assessed upon it (except in the cases hereafter specified) until the division shall have been finally adjusted and ratified, and the proprietors put into possession of the distinct estates into which it may be ordered to be divided.—Reg. XIX., 1814, sec. xxviii.

42. In cases where the landed property to be divided is held khas or let in farm by Government, the partition, inasmuch as regards the allotment of the lands, shall be made agreeably to the rules herein prescribed, as far as they may be applicable to lands so circumstanced, and the farmer or the native collector of the revenue on the part of Government shall produce all the accounts and papers which he may possess respecting the lands, upon receiving a requisition to that effect from the aumeen. Such property, when divided, will be subject to the rules contained in the Regulations cited in paragraph 9.—Reg. XIX., 1814, sec. xxix.

43. In order to obviate doubts respecting the descriptions of joint estates to which the several provisions herein contained are meant to be applied, it is hereby explained, that the whole of the said provisions are applicable to joint estates held in common tenancy, viz., where all the sharers have a common right and interest in the whole of the estate, without any separate title to

distinct lands or mehauls forming part of the estate held under one general assessment. Many of these provisions, however, such as those which direct a compact division of the lands, the selection of lands of equal value for the several sharers, and other circumstances relative to an equal partition of the estate, have evidently an exclusive reference to the division of landed property between tenants in common or copartners with equal rights in every part of the estate, and cannot be applied to portions of estates consisting of specific mehauls or lands held by purchase, or otherwise, from the former proprietor, and separable from his estate under the Regulations, subject to a proportionate allotment of the public assessment conformably to the rules prescribed in the Regulations cited in paragraph 9, but remaining annexed to the original estate, until the distinct assessment of the separable portion shall have been adjusted and separately engaged for. In such cases, the provisions herein contained which respect the adjustment of the assessment, the accounts to be delivered and examined for this purpose, the responsibility of the whole original estate until a distribution of the assessment shall have been finally determined and ratified, and the power which the Governor-General in Council reserves to himself of ordering a new allotment of the assessment, in the event of its being proved to his satisfaction, within ten years, that the allotment made was fraudulent or erroneous, are alone to be considered applicable with the further provisions herein contained. But all new allotments of the assessments in the cases herein referred to, as in all other cases whatever, shall be reported for the sanction of the Board of Revenue, and shall not be deemed conclusive or valid until confirmed by the Board, or in the event of any reduction of the fixed assessment, until approved by the Governor-General in Council.—Reg. XIX., 1814, sec. xxx.

44. A register, according to the annexed form, shall be kept in the English language of all confirmed partitions. This register shall merely show the name, the recorded proprietor or proprietors, and the jumma of the estate as it stood when the partition was commenced, with the names, the recorded proprietors, and the jumma of the several portions thereof made into distinct estates by the partition when confirmed, together with the date of the confirmation; and whenever any such distinct estate (created by partition) shall fall in balance, so as to require a sale of the land for the discharge of the arrear at any period within ten years of the date of the confirmation of such partition, it shall be the duty of the collector, by every means in his power, to trace the cause of such balance towards ascertaining whether it has arisen from any fraudulent or erroneous allotment of the assessment at the time of the division, and whatever may appear to be the cause, to make a special and full report upon the case to the Board to whose authority he may be subject, and who will determine, upon the receipt of such report, whether the sanction of the Governor-General in Council shall be obtained for directing a new allotment of the jumma upon the several portions into which the original estate was divided, or otherwise.—Reg. XIX., 1814, sec. xxxi.

45. With the view of discouraging all artificial delays in giving possession of their proper shares to sharers entitled to separation in joint estates held in common tenancy, it is hereby enacted, that whenever it shall appear to the Board of Revenue, that a partition duly proceeded upon is not or cannot be completed within the period originally fixed in the sunnud to the aumeen, by reason of any impediments thrown in the way of its completion by the party or parties holding possession of the estate, it shall be competent to the Board, upon an application being preferred to them to that effect by the sharer who is out of possession (either through the collector or directly to the Board), to direct immediate possession to be given to such sharer of a certain quantity of the lands of the estate, the assets of which shall be just sufficient (as far as the same can be ascertained) to produce the amount of the jumma payable by such sharer when separated (and which in all cases of fractional shares is of course known), with an advance of from fifteen to twenty per cent. (viz., ten per cent. for malikana, and not less than five nor more than ten per cent. for charges of collection) and no more. This possession is not, however, to be considered as a final allotment, but the partition is still to proceed in the regular manner, with the view to the adjustment of any inequalities of proportion which the assets of the lands thus delivered to the possession of the sharers may be ultimately found to bear to the assets of the estate at large, as well as the adjustment of all other points affecting the value of the several shares when divided, so that on the completion of the partition the final allotment of land to the several parties, separated according to the jumma payable by them, may in every respect be conformable to the rules prescribed in paragraphs 8 and 9.—Reg. XIX., 1814, sec. xxxii.

46. Whenever the partition of a joint estate held in common tenancy shall have been commenced or ordered to be made, whether on the direct application of the parties to the collector, or under a precept from a Court of Justice, if the estate should fall in balance at any time before the partition be completed and confirmed, it shall be in the option of any one or more of the sharers (whether in actual possession of their shares or otherwise) to tender to the collector his or their proportions of the balance due, which the collector shall receive and pass to the credit of his or their shares accordingly; and in the event of a sale of any part of the estate (yet undivided) becoming ultimately necessary for the liquidation of any remaining balance, the portion or portions of the defaulting sharer or sharers

only shall be sold, and not those of the sharers who shall have paid their proportions of the balances; and, in all such cases, the partition shall go on and be completed for the benefit of the purchaser at the public sale, and who, on making the purchase, will be entitled to separate possession of the portion or portions of the estate which would have been allotted under the partition to the defaulting proprietors (and which in all such instances are to be sold entire), and will in every respect succeed to all their rights.—Reg. XIX., 1814, sec. xxxiii.

47. To provide also, as far as practicable, against any injurious consequences to individuals from delays and difficulties which are observed to attend the allotment of the public revenue upon specific mehauls forming part of an estate held under a general assessment, when ordered to be separated therefrom, the following rules are to be observed in regard to such mehauls.—Reg. XIX., 1814, sec. xxxiv., cl. 1.

48. Whenever the proprietor of a specific mehaul in a joint estate shall be entitled to separation under the Regulations, and the separation and allotment of the public revenue upon such distinct mehaul shall have been commenced upon, or ordered to be commenced upon, if the estate of which it forms a component part should fall in balance at any time previous to the completion and confirmation of such allotment, so as to require a sale of the whole or any portion of the estate, it shall be in the option of the proprietor of the mehaul in question (and to whom immediate possession thereof is to be given, if it be not already in his possession), to tender to the collector his share of the balance due, calculated on the proportion which the produce of such specific mehaul, with a deduction of from fifteen to twenty per cent. (viz., ten per cent. for malikana, and not less than five nor more than ten per cent. for charges of collection) may bear to the jumma of the whole estate. Upon such tender being made and the collector being satisfied, from the inquiries made by him and the evidence and documents before him, that the produce of the mehaul has not been underrated, he shall receive the amount tendered and pass it to the credit of the mehaul accordingly; and in the event of a sale of any part of the estate becoming ultimately necessary for the liquidation of any remaining balance, such sale shall be made with the expressed exception of the specific mehaul in question, and the separation and final allotment of the jumma thereupon shall go on and be completed in the prescribed manner, for the benefit of all the parties concerned therein. Provided, moreover, that if the payment made by the proprietor of the specific mehaul under this rule shall, on a final adjustment of the jumma of the parties, be found to exceed the true proportion of the balance demandable from him, such proprietor shall be entitled to repayment of the excess from the collector, who shall at the same time proceed to recover the amount thereof from the defaulting proprietor or proprietors (upon whom a less amount than their just proportions will have been levied) by the same process as he would recover any other arrear of revenue: or if it shall, on the contrary, appear that the proprietor of the specific mehaul has paid less than he ought to have paid, the deficiency shall be recovered from him, and any excess which may have been levied from the defaulting proprietor or proprietors shall be made good to them.—Reg. XIX., 1814, sec. xxxiv., cl. 2.

49. In the execution of the duties vested in the Board of Revenue by these rules, as in all other cases, they shall be guided by whatever special orders or instructions they may at any time receive from the Governor-General in Council, to whom they shall apply in all cases which they may consider unprovided for by the Regulations.—Reg. XIX., 1814, sec. xxxv.

FORM.—*Register of Butwarras confirmed, to be kept in the English and Native Languages in the Collector's Office, and in the Office of the Board of Revenue, as required by paragraph 44.*

| 1. | 2. | 3. | 4. | 5. | 6. | | | | 7. | 8. | 9. | 10. | 11. | 12. | | | | 13. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Name of the Estate | Proprietor or Proprietors. | Number of Pergunnahs | Number of Villages. | Quantity of Land. | Jumma of the entire Estate. | | | | Fractional Portion | Proprietor or Proprietors. | Number of Pergunnahs | Number of Villages | Quantity of Land. | Jumma of each Portion. | | | | Date of confirmation. |
| | | | | | | | | | | | | | | | | | | |

PUTTEEDARY ESTATES, NORTH-WESTERN PROVINCES.

50. Any putteedar or sharer of a joint undivided estate, having the exclusive and acknowledged right to and possession of one or more distinct village or villages in such estate, shall be at liberty, under the following reservations and exceptions, to cause the said village or villages to be separated from the general estate; and the jumma of such village or villages shall be allotted after an exact measurement of the lands comprised therein, by deducting from the gross produce thereof an allowance, according to circumstances, from five to ten per cent. for the expense of management, and ten per cent. of the net income of the proprietor, leaving the remainder as the jumma of Government. Provided always, that the quantity of land in actual cultivation at the time of separation be not less than five-sixths of the land capable of tillage in the said village or villages, and that no objection be offered to the fairness and adequacy of the assessment on the part of the other sharers in the general estate of which such village or villages formed a part.—Reg. IX., 1811, sec. ii.

51. The account of the measurement directed in the preceding paragraph shall exhibit the whole of the actual gross produce of the lands, and shall be formed under the immediate superintendence of the collector. The original thereof shall be attested by the proprietor requiring the separation, the putwary of the village, the mirdahs, canongoes, and tehseeldar of the pergunnah. Copies of all such measurements shall be kept in the office of the canongoes, and annually bound in a book, to be attested with the official seal and signature of the collector, and then returned to those officers for deposit among their records.—Reg. IX., 1811, sec. iii.

52. The measurement directed in paragraph 50 shall be made entirely at the expense of the party requiring the division; and the rules laid down in Regulation XIX., 1814, as far as they regard the mode of payment of persons employed in dividing lands, are to be applied in this case.—Reg. IX., 1811, sec. iv.

53. Any putteedar in the actual possession and occupancy of a defined share in a joint undivided estate (whether such share be defined by a specific quantity of land, or a specified fractional part of a rupee or of a begah), who may be desirous of having a separate allotment made of the proportional jumma to which he would be liable in the proportion of his interest in the estate, shall be at liberty to prefer to the collector an application to this effect, and the collector, on receipt thereof, shall proceed to allot the separate assessment of such share, in the mode prescribed by paragraph 50, for the allotment of entire villages. Provided, however, that if the specific interest of the party in the estate shall be disputed by the other sharers, no separate allotment shall take place until his specific interest shall have been ascertained by award of arbitration, as provided in a subsequent part of these rules for claimants not in possession, or by the decree of a Court of Judicature.—Reg. IX., 1811, sec. v.

54. Whenever all the occupant putteedars of a joint undivided estate shall desire or consent to an allotment of the jumma on the shares in their respective occupancy, and shall deliver to the collector, in writing, a petition signed by the whole of them, containing a statement of the proportional allotment affixed by themselves on each share, it shall be competent to the collector, with the approbation of the Board of Revenue, after having satisfied himself, by a minute and accurate inquiry, that the statement in question is the bonâ fide declaration of the subscribing parties, that the signatures are voluntary and authentic, and that Government is not liable to suffer in its interests by the measure, to take separate engagements for each puttee from the owner thereof, as a distinct proprietor, at the jumma so fixed by the putteedars conjointly; and no non-occupant putteedar shall be entitled afterwards to assent to or dissent from the allotment.—Reg. IX., 1811, sec. vi.

55 Whenever all the occupant putteedars of a joint undivided estate shall desire such an allotment, but may not agree among themselves in regard to their respective proportions of the jumma so to be allotted, the collector, on receipt of an application to that effect under the seals or signatures of the whole of such putteedars, and after satisfying himself of the voluntary concurrence of all the subscribing parties, shall proceed to allot the proportional jumma of each respective share, by causing an actual and exact measurement to be made of the entire estate and of each share by an aumeen to be deputed for the purpose, or by the tehseeldar, canongoes, and mirdahs of the pergunnah; and the expense of such measurement shall be defrayed by all the putteedars in the proportion of their respective interests.—Reg. IX., 1811, sec. vii.

56. The Board of Revenue shall instruct the collectors from time to time as to the mode by which the duties directed in the preceding paragraphs may be best conducted; and all divisions and allotments made under these rules shall be recorded in the canongoe's office, and attested by the parties and by the local mofussil officers, in the same manner as is directed by paragraph 51 in regard to the measurement of distinct villages. It is moreover to be understood, that all the provisions of the existing Regulations in regard to aumeens deputed by a collector shall be held applicable to aumeens deputed under paragraphs 50, 53, and 55.—Reg. IX., 1811, sec. viii.

57. No division of a share in an estate or allotment of jumma therein shall be considered valid until expressly sanctioned by the Board of Revenue; and the Governor-General in Council reserves to himself the power of revising the assessments made under paragraphs 50, and 53 to 55, at any time within the period of ten years after the making thereof, on proof to his satisfaction of fraud, collusion, or gross error.—Reg. IX., 1811, sec. ix.

58. Any person claiming to be a putteedar or joint sharer in an estate, but not having actual possession of any specific portion thereof, shall be at liberty to prefer his claim before the collector, who will thereupon serve on the party or parties who have engaged for the estate in proprietary right, a written notice setting forth the claim, and calling upon such party or parties for an admission or denial of the claim; and if the said party or parties admit, by a writing authenticated by his or their seal or signature, and attested by the canongoes, the right of the claimant to a specific portion of the estate, it shall be competent to the collector to give the claimant possession of such specific portion, and to proceed to a separate allotment of the jumma of such portion, under the provisions of paragraphs 50 or 53, according as such portion may consist either of one or more distinct village or villages, or of a defined share in the entire estate.—Reg. IX., 1811, sec. x.

59. In the event of the claim being denied or the specific interest of the claimant being disputed, the collector shall recommend to the several parties to submit the matter in dispute to the arbitration of three or more of the neighbouring zemindars, assisted by the canongoes of the pergunnah; and on the parties consenting to appoint arbitrators, it shall be competent to the collector to tender to the parties for execution arbitration bonds in the form prescribed by Regulation XXI., 1803; and on the due execution of the arbitration bonds by the parties, to refer the matter for decision to the arbitrators; and all the provisions of the said Regulation shall be applicable to awards given by arbitrators appointed under this rule. Provided, however, that if either party refuse to concur in submitting the matter to arbitration, the claimant shall be left to prosecute his claim by regular suit in the Courts of Judicature.—Reg. IX., 1811, sec. xi.

60. The arbitrators in all cases referred to them for amicable adjustment under the foregoing paragraph, and the Courts of Judicature in all suits for putteedaree shares of an estate, shall make it a rule, on giving a decision in favour of the claimant, to specify in the award or decree the precise share to which the claimant may be entitled, whether it consist of one or more distinct village or villages, or of a defined portion of the general estate. The collector, on production of such award or decree, shall proceed to the separate allotment of the jumma of the share thus awarded or decreed under the provisions of paragraphs 50 or 53, according as they may be respectively applicable to the case.—Reg. IX., 1811, sec. xii.

61. After the separate allotment of the jumma upon any one or more share or shares of an estate, or upon all the shares of an estate, shall have been made in conformity to the provisions of paragraphs 50, and 53 to 55, according as the provisions of either may be applicable to the case, and shall have been confirmed by the Board of Revenue under paragraph 57, the share or shares upon which a separate proportion of the general jumma may have been so allotted shall not be held liable for any default or arrear of revenue, except such as may accrue on the separate proportion of jumma thus allotted upon such share or shares. And in the event of its being necessary to have recourse to a sale of lands for the recovery of any arrear of revenue due from such an estate, the share or shares from which the arrear may be due shall alone be liable to be sold.—Reg. IX., 1811, sec. xiii.

62. In consideration of the peculiar nature of the putteedaree tenures to which these rules are meant to apply, it is hereby declared, that whenever the Board of Revenue shall deem it expedient not to proceed to the absolute sale of such defaulting share, it shall be competent to the said Board to authorize a conditional transfer of such share to the proprietor of any other share of the same general estate, by way of mortgage or conditional sale, for the amount of the arrear, or of such portion of it as may be equal to the value of the defaulter's share, or with a reservation for a further payment to the owner, if the value of the share, in the Board's judgment, exceed the amount of the arrears: and the defaulting proprietor or proprietors of the share so transferred, and his or their legal representative or representatives, shall be entitled to reclaim possession of such share or shares, on repayment of the consideration for which it may have been so transferred, with legal interest, at any time within five years from the date of the transfer.—Reg. IX., 1811, sec. xiv.

63. If the person to whom such defaulting share shall have been so transferred shall, on tender of repayment before two competent witnesses, refuse to accept the same and to surrender possession of the land, the party tendering it shall be at liberty to deposit the amount in the Zillah Court; and the judge shall, on such deposit being made, proceed as is directed by Regulation XXXIV., 1803, in regard to the redemption of conditional sales by the act of the party. If payment of the principal and interest shall not be tendered within five years, the puttee will of course become the bonâ fide property of the mortgagee.—Reg. IX., 1811, sec. xv.

64. No final process shall issue from the collector's office for the actual division of lands or allotment of jumma under any of the rules herein contained, until the parties soliciting such division or allotments shall have deposited with the collector a fee equal to one per cent. on the

estimated gross produce of the land so to be divided, as soon as the same may have been ascertained, according to the provisions applicable to the case of such division or allotment.—Reg. IX., 1811, sec. xvi.

65. The fee required in the preceding paragraph shall be annually accounted for to the Board of Revenue, who will, after inspecting the annual register directed to be prepared by paragraph 51, direct its appropriation to the benefit of the native officers, in such proportions as may appear proper, on a due consideration of the accuracy and industry of those officers in preparing the register, and the general execution of the duties prescribed for facilitating the division of landed property —Reg. IX., 1811, sec. xvii.

66. Nothing contained in the foregoing rules shall be construed to prevent persons availing themselves of the provisions contained in Regulation XIX., 1814, in cases in which they may not wish to apply for and obtain a separation of their puttees or shares under the present rules, or in cases in which these rules may not be applicable.—Reg. IX., 1811, sec. xviii.

# LAND REVENUE.

## REGISTRY OF ESTATES AND REVENUE RECORDS.

### TABLE OF ENACTMENTS.

| Original Regulation or Act. | Paras. in Consolidation. | REMARKS. |
|---|---|---|
| 1793. XLVIII. | | |
| ii. 1. | 1 | |
| 2. | | Superseded by sec. xiii., Reg. VIII., 1800. |
| iii. | 3 | |
| iv., v., vi. | 5, 6, 7, | |
| vii. | 9 to 14 | Part of cl. 5 omitted under secs. xi. and xii., Reg. VIII., 1800. |
| viii. | | Superseded by sec xii., Reg. VIII., 1800. |
| ix. to xi. | 16, 17, 18 | |
| xii., xiii., xiv. | 21, 22, 23 | |
| xv. | 24 | Part omitted under sec. xv., Reg. VIII., 1800. |
| xvi. | 25 | |
| xvii. to xxv. | 27 to 41 | Modifications in sec. xxv., from Act XX., 1848. |
| xxvi. | 42 | Part rescinded by sec. xv., Reg. VIII., 1800. |
| xxvii. to xxix. | 45 to 47 | |
| xxx. | 64 | |
| 1793. XXI. | | |
| ii. to viii. | 67 to 73 | |
| 1795. XIX. ii. 1. | 1 | |
| 2. | | Superseded by sec. xiii., Reg. VIII., 1800. |
| iii. | 3 | |
| iv., v. | 5, 6 | |
| vi. | 8 | |
| vii. | 9 to 14 | Part of cl. 4 omitted under secs. xi. and xii., Reg. VIII., 1800. |
| viii. | | Superseded by sec. xii., Reg. VIII., 1800. |
| ix., x., xi. | 16, 17, 18 | |
| xii., xiii., xiv. | 21, 22, 23 | |
| xv. | 24 | Part omitted under sec. xv., Reg. VIII., 1800. |
| xvi. | 25 | |
| xvii. to xxiii. | 27 to 41 | Modifications in sec. xxiii., from Act XX., 1848. |
| xxiv. | 42 | Part rescinded by sec. xv., Reg. VIII., 1800. |
| xxv. to xxvii. | 45 to 47 | |
| xxviii. | 64 | |
| 1795. XXX. ii. | 67 | |
| 1797. XV. | | |
| ii. to ix. | 74 to 85 | Modification in sec. iv., from Act XX., 1848. |
| 1800. VIII. | | |
| ii. to x. | 48 to 59 | |
| xi. | 15 | The greater part unnecessary. |
| xii. | | Rescission only; unnecessary. |
| xiii. | 2 | First part unnecessary. |
| xiv. | 26 | |
| xv. | 44 | First part unnecessary. |
| xvi. | 43 | |
| xvii. | 62 | First part unnecessary. |
| xviii. | 63 | Modifications from sec. x., Reg. VIII., 1809. |
| xix. | | La-Khiraj. |
| xx., xxi. | 60, 61 | |
| xxii. | | Extinct. |
| 1803. XXIII. | | |
| ii. to xvi. | 67 to 85 | Modification in sec. xi., from Act XX., 1848. |

| Original Regulation or Act. | Paras. in Consolidation. | REMARKS. |
|---|---|---|
| 1803. XLII. ii. | 1, 2 | |
| iii. | 4 | |
| iv., v., vi. | 5, 6, 7 | |
| vii. | 9 to 13 | |
| viii. | 14 | |
| ix. | 16 | |
| x. to xxix. | 19 to 47 | Modifications in sec. xxv., from Act XX., 1848. |
| xxx. | | Unnecessary. |
| xxxi. to xliv. | 48 to 64 | |
| 1805. XII. x., xi. | 65, 66 | |

## TABLE OF DIVISIONS.

| TITLES OF DIVISIONS. | Nos. of Paragraphs. |
|---|---|
| Quinquennial Registers ... ... ... ... ... ... ... ... ... ... | 1 to 47 |
| Pergunnah Registers of Malguzary and Lá-khiraj ... ... ... ... ... ... | 48 to 64 |
| Registers in Cuttack ... ... ... ... ... ... ... ... ... ... | 65 & 66 |
| Revenue Records and Record Keepers ... ... ... ... ... ... ... ... | 67 to 73 |
| Fees for Registry ... ... ... ... ... ... ... ... ... ... ... | 74 to 85 |

# LAND REVENUE.

## REGISTRY OF ESTATES AND REVENUE RECORDS.

### QUINQUENNIAL REGISTERS.

1. Every five years, the collectors of the land revenue in the several zillahs shall prepare a register of all the estates in their respective zillahs, of whatever denomination or description, the proprietors of which pay the public jumma or revenue assessed upon their estates immediately to Government.—Reg. XLVIII., 1793, sec. ii., cl. 1; Reg. XIX., 1795, sec. ii., cl. 1; Reg. XLII., 1803, sec. ii., cl. 1.

2. By the term estate is to be understood any land subject to the payment of public revenue, for the discharge of which a separate engagement has been or may be entered into with Government by the proprietor or by a farmer, or which may have been separately assessed with the public revenue, although no engagement shall have been executed to Government, as in cases where the estate may be held khas by a sezawul or other officer on the part of Government, or be managed by a serberakar for the benefit of a disqualified proprietor.—Reg. VIII., 1800, sec. xiii.; Reg. XLII., 1803, sec. ii., cl. 2.

3. The names of the estates in each zillah are to be arranged in alphabetical order, according to the English alphabet.—Reg. XLVIII., 1793, sec. iii.; Reg. XIX., 1795, sec. iii.

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*Ceded and Conquered Provinces.*

4. The names of the estates in each zillah shall be arranged according to the amount of the annual jumma assessed on each estate, commencing with the estate yielding the most considerable revenue to Government.—Reg. XLII., 1803, sec. iii.

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5. Estates having names are to retain the names by which they are at present distinguished.—Reg. XLVIII., 1793, sec. iv.; Reg. XIX., 1795, sec. iv.; Reg. XLII., 1803, sec. iv.

6. Where it is the practice to vary the appellation of estates upon every change of the proprietors, such estates are henceforth to bear the names by which they are at present distinguished.—Reg. XLVIII., 1793, sec. v.; Reg. XIX., 1795, sec. v.; Reg. XLII., 1803, sec. v.

7. Estates that have not been distinguished by any particular appellation shall be named by the proprietor or proprietors, and shall henceforth retain the name which may be so given to them. If any dispute shall arise between the proprietors of a joint estate regarding the name to be given to the estate, it shall be determined by a majority of the proprietors, or in the event of the absence or disqualification of any such proprietors, by a majority of those present who may be qualified to vote; with this provision, that where the votes and interest in the estate may be equal, or the proprietor shall neglect to give a name to the estate upon the requisition of the collector, he shall name the estate without reference to the Board of Revenue.—Reg. XLVIII., 1793, sec. vi.; Reg. XLII., 1803, sec. vi.

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*Benares.*

8. Estates that have not been distinguished by any particular appellation are to be named by the proprietor or proprietors, and henceforth to retain the name which may be so given to them. If any dispute shall arise between the proprietors of a joint estate, regarding the name to be given to the estate, the collector shall name the estate without reference to the Board of Revenue.—Reg. XIX., 1795, sec. vi.

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9. Where estates, in addition to their names, bear the distinguishing appellation of talook, tuppa, &c., they are to be placed on the register according to the initial letters of their names, and any such distinguishing appellations are to be inserted immediately after the names as follows:—

"Akberpore (tuppa or talook)," &c.

Reg. XLVIII., 1793, sec. vii., cl. 1.; Reg. XIX., 1795, sec. vii., cl. 1.; Reg. XLII., 1803, sec. vii. cl. 1.

10. Where a zemindary, talook, chowdrai, or other land tenure, from whatever cause, shall have been, or may be divided into a number of puttees or shares, each consisting of a specific and ascertained proportion of the original estate, and the putteedars or sharers shall have the separate

possession of their shares, and shall have entered into distinct engagements with Government for the payment of the public revenue assessed upon their respective shares, so as to render each share a distinct estate, the shares are to be placed under the head of the zemindary, talook, chowdrai, or other land tenure, of which they originally constituted a part, as follows:

"Akberpore:
"Six annas,
"Three annas,
"Seven annas."—Reg. XLVIII., 1793, sec. vii., cl. 2; Reg. XIX., 1795, sec. vii., cl. 2; Reg. XLII., 1803, sec. vii., cl. 2.

11. If any lands, villages, or mohauls in an estate, not forming an ascertained and specific proportion of the whole estate, shall have been or may be transferred, either by public sale or by any private act of the proprietor, and the new proprietor shall have entered into, or may execute separate engagements to Government for the public revenue, the lands so transferred (which, agreeably to paragraph 2, will form a separate estate) are not to be inserted under the head of the zemindary, talook, chowdrai, or other land tenure, of which they originally formed a part, as directed with regard to the estates described in the preceding paragraph, but they are to be considered as original and distinct estates, and to be named under the rules above prescribed for the naming of estates.—Reg. XLVIII., 1793, sec. vii., cl. 3; Reg. XIX., 1795, sec. vii., cl. 3; Reg. XLII., 1803, sec. vii., cl. 3.

12. If parts of the same estate shall be situated in different zillahs, and one engagement only shall have been executed by the proprietor to Government for the whole estate, in such case the portions in each zillah are to be registered as kismuts or parts of the estate, without any specification of the proportion that they may bear to the whole estate, which, under such circumstances, may not be ascertainable.—Reg. XLVIII., 1793, sec. vii., cl. 4; Reg. XLII., 1803, sec. vii., cl. 4.

13. Under the head of each estate shall be specified the names of all the pergunnahs, or other local divisions, arranged as directed in paragraph 3, together with the exact number of villages or other subdivisions appertaining to the estate.—Reg. XLVIII., 1793, sec. vii., cl. 5; Reg. XIX., 1795, sec. vii., cl. 4; Reg. V., 1800, secs. xi., xii.; Reg. XLII., 1803, sec. vii., cl. 5.

14. Where estates consist of one, two, or more villages, not comprising a whole pergunnah, the name of the pergunnah in which the estate may be situated shall be specified.—Reg. XLVIII., 1793, sec. vii., cl. 6; Reg. XIX., 1795, sec. vii., cl. 5; Reg. XLII., 1803, sec. viii.

15. The collectors are enjoined to take the utmost care that the names of the pergunnahs (or other local divisions where there may be no pergunnah), as well as the number of villages or other subdivisions stated to be in each, are exactly conformable to the pergunnah register; and are to furnish their native officers appointed to prepare the counterpart registers with particular instructions for this purpose.—Reg. VIII., 1800, sec. xi.

16. The name or names of the proprietor or proprietors of every estate shall be inserted opposite to the estate, and if the estate be let in farm, the name of the farmer is to be specified.—Reg. XLVIII., 1793, sec. ix.; Reg. XIX., 1795, sec. ix.; Reg. XLII., 1803, sec. ix.

17. The quinquennial register to be first formed for the zillahs in Bengal, Behar, Orissa, and Benares, shall commence with the Bengal, Fusly, and Willaity, year 1202, and shall exhibit the estates in the several zillahs, and the required particulars respecting them, as they may stand at the commencement of that year, of the era current in each province. Upon this register being completed, a similar register shall be forthwith formed, to commence with the year 1197, and show the estates in the several zillahs or sircars as they stood at the commencement of that year of each era, being the first of the decennial settlement. The quinquennial register to be formed at the commencement of the year 1207 of the era current in each province, and every succeeding five years, is to exhibit the estates in each zillah as they may stand at that and each subsequent period.—Reg. XLVIII., 1793, sec. x.; Reg. XIX., 1795, sec. x.

18. The register to be first formed, and to commence with the Bengal, Fusly, and Willaity, year 1202, is to be numbered two; the register to be next formed, commencing with the year 1197 of each era, is to be numbered one; the register to be formed at the commencement of the year 1207 of the respective eras is to be numbered three; and every subsequent quinquennial register in the order in which it may be formed.—Reg. XLVIII., 1793, sec. xi.; Reg. XIX., 1795, sec. xi.

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*Ceded Provinces.*

19. The periodical register to be first formed for the zillahs in the provinces ceded by the Nawaub Vizier to the English East-India Company shall commence with the Fusly year 1215, and shall exhibit the estates in the several zillahs, and the required particulars respecting them, as they may stand at the commencement of that year. Upon this register being completed, a similar register shall be forthwith formed, to commence with the Fusly year 1210, and show the estates in the several zillahs as they stood at the commencement of that year. The periodical register to be formed at the

commencement of the Fusly year 1210, and every succeeding five years, shall exhibit the estates in each zillah as they may stand at that and each subsequent period.—Reg. XLII., 1803, sec. x.

20. The register to be first formed, and to commence with the Fusly year 1215, shall be numbered two; the register to be next formed, commencing with the Fusly year 1210, shall be numbered one; the register to be formed at the commencement of the Fusly year 1220, shall be numbered three; and every subsequent periodical register in the order in which it may be formed.—Reg. XLII., 1803, sec. xi.

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21. The register for each zillah is to be written on English paper, of the exact size of that on which the form hereafter directed to be prepared by the Board of Revenue may be written, and is to be bound up in one volume, on the back of which there shall be the following inscription:—"Register of estates paying revenue to Government in the zillah of ———, at the commencement of the year ———, Bengal (Fusly or Willaity) era ———, corresponding with the year of our Lord ———, Number ———."—Reg. XLVIII., 1793, sec. xii.; Reg. XIX., 1795, sec. xii.; Reg. XLII., 1803, sec. xii.

22. When the draft of the quinquennial register is completed, it is to be transcribed into a book of the prescribed dimensions, each leaf of which shall be previously paged, and be signed by the judge of the Dewanny Adawlut of the zillah [judge of the city in Benares], and on the last leaf of the book the judge is to specify in his own handwriting the number of pages contained in it; and no register shall be considered as authentic, but such as may be entered in a book so paged and attested.—Reg. XLVIII., 1793, sec. xiii.; Reg. XIX., 1795, sec. xiii.; Reg. XLII., 1803, sec. xiii.

23. It shall be the duty of the keepers of the native records to keep an exact counterpart of the English register in each zillah, in a volume of such dimensions as the Board of Revenue may prescribe, and which shall be paged, and be attested by the judge of the Dewanny Adawlut of the zillah [judge of the city in Benares], in the same manner as the books containing the English registers; and no other counterparts of the registers of estates shall be considered as authentic, but such as may be entered in a book so paged and attested.—Reg. XLVIII., 1793, sec. xiv.; Reg. XIX., 1795, sec. xiv.; Reg. XLII., 1803, sec. xiv.

24. The counterpart registers are to be kept in the Persian language.—Reg. XLVIII., 1793, sec. xv.; Reg. XIX., 1795, sec. xv.; Reg. V., 1800, sec. xv.; Reg. XLII., 1803, sec. xv.

25. For the purpose of recording the divisions of estates, or the transfers of estates, or portions of estates, or the union of estates that originally formed a part of the same zemindary, talook, chowdrai, or other land tenure which may take place during the five years subsequent to the forming of each quinquennial register, the collectors are to prepare a book, of such dimensions as the Board of Revenue may prescribe, and which shall be denominated the "Register of intermediate mutations in landed property," and have the following inscription on the back:—"Register of intermediate mutations in landed property between the commencement of the year ———, and the expiration of the year ———, Bengal (Fusly or Willaity) era." Previous to any entries being made in this register it is to be paged, and the judge of the Dewanny Adawlut of the zillah [judge of the city in Benares] is to sign each leaf of it, and on the last leaf specify in his own handwriting the number of pages contained in the book. The collector shall cause to be entered in this register all divisions of estates, or transfers of estates, or portions of estates, and every union of estates which originally constituted a part of the same zemindary, talook, or chowdrai, that may take place during the five years subsequent to the formation of each quinquennial register, with the authority by which the same may have been made, and all the particulars necessary for making the required entries in the next quinquennial register, and shall attest the entry with his signature.—Reg. XLVIII., 1793, sec. xvi.; Reg. XIX., 1795, sec. xvi.; Reg. XLII., 1803, sec. xvi.

26. The "Register of intermediate mutations in landed property," prescribed in the foregoing paragraph, shall include all alterations in any of the entries in the quinquennial registers which may take place within the periods at which these registers are directed to be prepared: all alterations in the amount of the annual revenue assessed upon estates should therefore be stated in the registers of intermediate mutations, whether proceeding from an allotment of the fixed assessment upon portions of divided estates, in conformity to Section X., Regulation I., 1793; Section VII., Regulation XXVII., 1795; and Section XXXVII., Regulation XXV., 1803 (see "SETTLEMENT," paragraphs 10, 145, and 190), or from an increase or decrease of the assessment upon any estate, as fixed at the period of the settlement, or subsequently thereto. In all such cases, the particulars of the allotment, increase, or decrease, are to be clearly stated in the register of intermediate mutations; and whenever an abatement of revenue may be inserted, the authority for such abatement is to be invariably quoted, with the date on which it may have been granted by the Governor-General in Council, and communicated by the Board of Revenue.—Reg. VIII., 1800, sec. xiv.; Reg. XLII., 1803, sec. xvi., cl. 2.

27. Whenever any estates, or portion of estates, shall be directed to be separated from one zillah and annexed to another, the collector of the zillah from which the separation may be ordered to take place is to transmit to the collector of the zillah to which the annexation is to be made, a copy of the

entries in the last quinquennial register formed prior to the separation, which may relate to the several estates, or portions of estates to be separated; and of any entries respecting them in the register of intermediate mutations which may have taken place subsequent to the forming of the last quinquennial register. These documents are to be entered by the collector of the zillah to which the annexations may be directed to be made, in the register of intermediate mutations in his zillah, as materials for forming the next quinquennial register.—Reg. XLVIII., 1793, sec. xvii.; Reg. XLII., 1803, sec. xvii.

28. The Governor-General in Council will direct the order for the separations and annexations specified in the preceding article to be notified to the Courts of Judicature from the jurisdiction of which the separation is to take place, and also to the Courts to the jurisdiction of which the annexation is to be made. Upon the arrival of the period when the separation and annexation is to be carried into effect, the collector of the zillah from which the separation may be made is to transmit to the judge of the Dewanny Adawlut of his zillah, copies of the entries in the last quinquennial register and register of intermediate mutations, which may relate to the estates or portions of estates to be separated from his zillah, and the collector to whose zillah the annexation may be made, is to transmit copies of the above-mentioned entries (with which he is directed to be furnished by the preceding paragraph) to the judge of his zillah. Immediately upon the receipt of these papers, the Courts from the jurisdiction of which the separations may be made, are to transmit the papers, in the causes depending before them, which, in consequence of the separation, may become cognizable in any other Zillah Court, to such Court, and to cause notification thereof to be communicated to the parties in writing.—Reg. XLVIII., 1793, sec. xviii.; Reg. XLII., 1803, sec. xviii.

29. To facilitate reference, as well as the preparing of the new quinquennial register at the end of every five years, the collector is to insert in the preceding quinquennial register, in red ink, opposite to the name of the estate in the property in which any alteration may have taken place, the number of the page in the register of intermediate mutations in which the alteration may be noted, and at the end of the note of the alteration in the last-mentioned register he is to insert, in red ink, the number of the page in which the estate may be registered in the quinquennial register; and every such entry shall be signed by the collector, who shall be responsible for the entry being truly and accurately made. The note of the alteration to be entered in the register of intermediate mutations is to specify the requisite particulars for completing the entries in the next quinquennial register, or refer to them if they be contained in the preceding quinquennial register. The collectors are strictly enjoined never to allow the register of intermediate mutations to fall in arrear, but to make the necessary entries immediately upon any mutation in property, or any separation or annexation of lands from or to their respective zillahs being notified to them through any of the channels specified in paragraphs 34 to 40.—Reg. XLVIII., 1793, sec. xix.; Reg. XIX., 1795, sec. xvii.; Reg. XLII., 1803, sec. xix.

30. A counterpart of the register of intermediate mutations in landed property is to be kept by the keepers of the native records, in the same form as the English register, and in a book, the leaves of which are, in like manner, to be paged and attested by the judge of the Dewanny Adawlut. —Reg. XLVIII., 1793, sec. xx.; Reg. XIX., 1795, sec. xviii.; Reg. XLII., 1803, sec. xx.

31. When a quinquennial register shall have been transcribed fair into the book attested by the judge, as directed in paragraph 22, if it shall be discovered that the entries respecting any estate are erroneous or incomplete, or that there are any material inaccuracies of the transcriber, the entries are not to be altered or erased, but are to stand, and the collector is to cause the errors or omissions to be noted in the register of intermediate mutations, and attest the entry with his signature, and insert in red ink, opposite to the erroneous or incomplete entry in the quinquennial register, the number of the page in the register of intermediate mutations in which the errors or omissions are noted, and at the end of the note specify the number of the page of the quinquennial register in which the property may be registered. Errors, or omissions in the register of intermediate mutations are to be noted in a similar manner.—Reg. XLVIII., 1793, sec. xxi.; Reg. XIX., 1795, sec. xix.; Reg. XLII., 1803, sec. xxi.

32. Erroneous or incomplete entries in the counterparts of the registers to be kept by the keepers of the native records are to be noted by them in the same manner as the collector is directed to note erroneous entries in the English registers. But the note of every such entry in the counterpart of the register of intermediate mutations in the Persian language shall, in addition to the attestation of the keepers of the native records, be signed by the collector.—Reg. XLVIII., 1793, sec. xxii.; Reg. XIX., 1795, sec. xx.; Reg. XLII., 1803, sec. xxii.

33. If the proprietary right in an estate, or the part of an estate, shall be under litigation in a Court of Justice, at the time of forming the first or any subsequent quinquennial register, the party in possession is to be registered as the proprietor.—Reg. XLVIII., 1793, sec. xxiii.; Reg. XIX., 1795, sec. xxi.; Reg. XLII., 1803, sec. xxiii.

34. The collectors will be furnished, through the following channels, with the necessary information regarding the mutations in landed property, and the annexations to, or separations from,

their respective zillahs, for making the requisite entries in the register of intermediate mutations.—Reg. XLVIII., 1793, sec. xxiv., cl. 1; Reg. XIX., 1795, sec. xxii., cl. 1; Reg. XLII., 1803, sec. xxiv., cl. 1.

35. The Zillah and City Courts are required by Section IX., Regulation IV., 1793, Section IV., Regulation VIII., 1795, and Section XI., Regulation III., 1803 ("PROCEDURE ON THE TRIAL OF ORIGINAL SUITS," paragraph 99), to transmit to them copies of all decrees that they may pass, or which may be sent to them to be enforced by the Sudder Dewanny Adawlut, in any respect relating to the proprietary right in lands paying revenue to Government.—Reg. XLVIII., 1793, sec. xxiv., cl. 2; Reg. XIX., 1795, sec. xxii., cl. 2; Reg. XLII., 1803, sec. xxiv., cl. 2.

36. The Board of Revenue are to furnish them with the necessary particulars regarding all such lands as may be disposed of by them at public sale at Calcutta.—Reg. XLVIII., 1793, sec. xxiv., cl. 3.; Reg. XIX., 1795, sec xxii., cl. 3.; Reg. XLII., 1803, sec. xxiv., cl. 3.

37. In cases in which lands may be ordered to be sold at their cutcherries, they will have in their own possession the authority for the sale, and all the necessary information regarding the property transferred.—Reg. XLVIII., 1793, sec. xxiv., cl. 4; Reg. XIX., 1795, sec. xxii., cl. 4; Reg. XLII., 1803, sec. xxiv., cl. 4; Reg. XXVI., 1803, sec. xxvii.

38. They will likewise have in their possession the requisite information respecting the division or the union of estates which may take place under Regulation XIX., 1814, that Regulation directing that the division and union of all estates are to be made under their superintendence.—Reg. XLVIII., 1793, sec. xxiv., cl. 5; Reg. XIX., 1795, sec. xxii., cl. 5; Reg. XLIII., 1803, sec. xxiv., cl. 5.

39. By Section X., Regulation I., 1793, Section VII., Regulation XXVII., 1795, and Section XXXVII., Regulation XXV., 1803 ("SETTLEMENT," paragraphs 10, 145, 190), transfers of estates, or portions of estates, must be notified to them before the name of the new proprietor can be inserted in the register directed to be kept by these rules.—Reg. XLVIII., 1793, sec. xxiv., cl. 6; Reg. XIX., 1795, sec. xxii., cl. 6; Reg. XLII., 1803, sec. xxiv., cl. 6.

40. The keepers of the registers established by Regulation XXXVI., 1793, are required by that Regulation to furnish them with the particulars of all transfers of landed property that may be entered in their registers.—Reg. XLVIII., 1793, sec. xxiv., cl. 7; Reg. XIX., 1795, sec. xxii., cl. 7.; Reg. XLII., 1803, sec. xxiv., cl. 7.

41. If a collector shall have occasion to require from the proprietor or the farmer of an estate, or from a putteedar distinct or common, or from a dependent talookdar or under-farmer, any information that may be necessary to enable him to form a quinquennial register, or to make the requisite entries in the register of intermediate mutations, and such person shall omit to furnish it by the time required, after having been served by the collector with a written requisition for that purpose under his official seal and signature, and shall not show sufficient cause for such omission, the collector may impose of his own authority such daily fine, to be payable daily until compliance with the requisition, as he may think adequate to the situation and circumstances in life of the defaulter, not exceeding in any case the daily fine of fifty rupees; and the amount of such fine, accruing due from time to time, may be levied without further confirmation, by the same process as is prescribed for the recovery of arrears of revenue.—Reg. XLVIII., 1793, sec. xxv.; Reg. XIX., 1795, sec. xxiii.; Reg. XLII., 1803, sec. xxv.; Act XX., 1848, sec. i.

NOTE.—See additional rules in Act XX., 1848.

42. The collectors of the several zillahs are to transmit, as early as may be practicable, to the Board of Revenue, an attested copy of the quinquennial registers, both in the English and Persian languages, each in a book of the prescribed size, paged and attested by the judge of the Dewanny Adawlut of the zillah [the judge of the city in Benares], in the same manner as the original register, as directed in paragraph 22, and within one month after the expiration of the third, sixth, ninth, and twelfth months of the Bengal, Fusly, or Willaity year (according to the era current in their respective districts), an attested copy of the entries in the register of intermediate mutations that may have taken place during the three preceding months.—Reg. XLVIII., 1793, sec. xxvi.; Reg. XIX., 1795, sec. xxiv.; Reg. XLII., 1803, sec. xxvi.

43. The copies of the several registers which the collectors are required by the preceding paragraph to furnish to the Board of Revenue, shall be transmitted by the collectors at the periods therein specified, in the English and Persian languages, to the accountant of the Board of Revenue, who is to report to the Board any instances of the prescribed quarterly copies not having been received at the fixed periods, or of the quinquennial copies not having been received within the year at the commencement of which the quinquennial registers are directed to be prepared; and is to return to the collectors, for correction, any copies of registers received from them which may not have been prepared according to the prescribed form. The accountant is also to compare the assessment stated in the registers of estates paying revenue with the accounts of the permanent or existing

settlements deposited in his office, as well as with any accounts or information which may from time to time be communicated to him by the Board of Revenue of any authorized alterations in the assessment, whether from allotments of the fixed assessment upon divisions of estates, or from any increase or decrease of assessment from whatever cause; and the secretary to the Board of Revenue is to be careful that the accountant is regularly informed of all such alterations which may be authorized. When the collector may have omitted only to quote the authority for such alterations in his register of intermediate mutations, the copy of the register is to be returned to him by the accountant to supply the omission; but if, in any case, it shall appear to the accountant that the collector has stated any alteration in the assessment of an estate without due authority, he is to report the same to the Board of Revenue, with any explanation given by the collectors, for such orders as may be necessary, or for the determination of the Governor-General in Council.—Reg. VIII., 1800, sec. xvi.; Reg. XLII., 1803, sec. xxvi., cl. 2.

44. The Zillah and City Courts of Dewanny Adawlut are authorized, whenever they may have occasion to refer to any of the registers prescribed, to require from the collectors the production of the original register, or an attested copy of such part thereof as may contain the required information. The collectors, on the receipt of such requisition, are immediately to transmit the original register, if it can be sent without inconvenience, under the care of one of their native officers, in whose custody it is to remain till returned; or if the original register cannot be conveniently sent, are to transmit without delay an accurate copy of such part thereof as may be required, under the attestation of their official signature. In like manner, the Board of Revenue, on the requisition of the Court of Sudder Dewanny Adawlut, are to furnish any zillah register received by them which may be required by that Court; or a copy, attested by the signature of their secretary or accountant, of any part thereof which may be required. In the event of any register required by a Court of Justice not having been prepared, and the period fixed for its preparation having elapsed, the collector is to explain to the Court the cause of such register not having been prepared, and the explanation so given is to be transmitted by the Court receiving it to the Governor-General in Council Any person succeeding to the office of collector, or invested with the temporary charge of such office, is also required, immediately on his taking charge, to ascertain whether the prescribed registers have been duly prepared; and if not, to report the same to the Board of Revenue, with any explanation he may have received of the omission, for the information of the Governor-General in Council.—Reg. VIII., 1800, sec. xv.; Reg. XLII., 1803, sec. xxvi., cl. 3.

45. The Board of Revenue and the collectors are enjoined to be particularly attentive to the preservation of the quinquennial register and registers of intermediate mutations, both in the English and Persian languages; and they are directed to have the fair copies of each, which are to be deposited amongst the public records, bound up with such materials as may be best calculated to prevent their being destroyed by insects.—Reg. XLVIII., 1793, sec. xxvii.; Reg. XIX., 1795, sec. xxv.; Reg. XLII., 1803, sec. xxvii.

46. The Board of Revenue are to prepare forms for the quinquennial register and the register of intermediate mutations, so that the first-mentioned register may exhibit the required particulars respecting each estate, and as far as may be practicable, the sircars, pergunnahs, or other established divisions of the country in which the estates in the several zillahs may be situated, and after submitting the forms for the approbation of the Governor-General in Council, they are to circulate copies to the collectors. The approved forms are not to be altered without the sanction of the Governor-General in Council; but the Board of Revenue are to suggest any improvements in the forms that may occasionally occur to them; and in the event of their being adopted, they shall take place from the period fixed for forming the next quinquennial register, or at such other period as may be deemed advisable. Upon the receipt of this Regulation, the collectors are to proceed to collect the necessary papers and information for forming the quinquennial register, which is to commence with the year 1202 of the era current in each province [1215 in the Ceded Provinces], and to register all mutations in property in their respective zillahs that may take place subsequent to the receipt of the Regulation. When the quinquennial register for the above-mentioned year is completed, or earlier if practicable, the collectors are to proceed to prepare the quinquennial register, which is to commence with the year 1197 [1210 in the Ceded Provinces], the first of the decennial settlement, and to complete the register of intermediate mutations to the expiration of the year 1201 [1214 in the Ceded Provinces].—Reg. XLVIII., 1793, sec. xxviii.; Reg. XIX., 1795, sec. xxvi.; Reg. XLII., 1803, sec. xxviii.

47. The quinquennial register to be formed in each of the zillahs in Bengal, Behar, Orissa, and Benares, at the commencement of the Bengal, Fusly, and Willaity, year 1207, and in the provinces ceded by the Nawaub Vizier to the English East-India Company at the commencement of the Fusly year 1220, and at the commencement of every succeeding five years, is to be prepared from the preceding quinquennial register, and the entries of subsequent mutations in property in the register of intermediate mutations, with the omission or addition of any estates, or portions of estates, that may have been separated from the zillah or annexed to it, subsequent to the forming of the last quin-

quennial register; the materials for each quinquennial register will thus be ready upon the arrival of the period for preparing it, and the register will be completed by the mere transcript of them into the book arranged according to the prescribed form.—Reg. XLVIII., 1793, sec. xxix.; Reg. XIX., 1795, sec. xxvii.; Reg. XLII., 1803, sec. xxix.

PERGUNNAH REGISTER OF MALGUZARY AND LA-KHIRAJ.

48. The collectors of the land revenue of the several zillahs, on receipt of this Regulation, shall proceed to form a register of all the lands in their respective districts, of whatever description, to be denominated "pergunnah register of lands, malguzary and la-khiraj," and to be prepared as hereafter directed.—Reg. VIII., 1800, sec. ii.; Reg. XLII., 1803, sec. xxxi.

49. The register shall contain a distinct head for each pergunnah; or where no pergunnah division may have been established, for such local division as may have been established instead of a pergunnah, whether a tuppah, turruf, or of whatever other known denomination; but wherever the pergunnah division may exist, the lands within such division shall be registered under the head of the pergunnah.—Reg. VIII., 1800, sec. iii., cl. 1; Reg. XLII., 1803, sec. xxxii., cl. 1.

50. The register of each pergunnah (or other local division where there may be no pergunnah) shall be divided into two parts, the one for malguzary lands, or lands assessed for the public revenue, the other for la-khiraj lands, or lands exempted from the public assessment.—Reg. VIII., 1800, sec. iii., cl. 2; Reg. XLII., 1803, sec. xxxii., cl. 2.

51. The malguzary part of the register shall comprise the following particulars of all lands within the pergunnah paying revenue to Government, to be specified distinctly for each estate situated therein.

1. Name of the estate to which the lands appertain, as entered in the register of estates paying revenue to Government, prescribed by paragraph 1, with a reference to the number under which the estate may have been entered in such register.
2. Name of the proprietor or proprietors of the estates as also entered in the register of estates prescribed by the preceding rules.
3. A detailed statement of the several villages, portions of villages, or other subdivisions of each estate within the pergunnah; with an accurate enumeration of them, for the purpose of being referred to in the register of estates, as provided in paragraph 15.
4. The ruckbah, or measurement of each village or other subdivision, whenever the same may be ascertainable by public measurements to settle disputes, or otherwise.
5. The gross rents of any village or other subdivision, which may have been ascertained by a khas collection, attachment, or otherwise.—Reg. VIII., 1800, sec. iii., cl. 3; Reg. XLII., 1803, sec. xxxii., cl. 3.

52. The la-khiraj part of the pergunnah register shall comprise the following particulars of all lands within the pergunnah not paying revenue to Government, to be specified distinctly for each la-khiraj tenure situated therein.

1. Denomination of the tenure as entered in the register of lands held exempt from the payment of revenue to Government, prescribed by Regulations XIX. and XXXVII., 1793; XLI. and XLII., 1795; and XXXI. and XXXVI., 1803 ("LA-KHIRAJ"), with a reference to the number under which the tenure may have been entered in such register.
2. Name of the holder or holders of the tenures as also entered in the register of exempted lands prescribed by the above Regulations.
3. A detailed statement of the several villages, portions of villages, or other subdivisions of each tenure within the pergunnah, with an accurate enumeration of them, for the purpose of being referred to in the register of exempted lands, as provided in paragraph 15.
4. The ruckbah, or measurement of each village or other subdivision, wherever the same may have been reported by the holders of la-khiraj tenures under the requisitions contained in the Regulations above mentioned, or may be otherwise ascertainable.
5. The gross rents of any village or other subdivision, the gross produce of which may have been ascertained.—Reg. VIII., 1800, sec. iii., cl. 4; Reg. XLII., 1803, sec. xxxii., cl. 4.

53. The first general pergunnah register shall be prepared for the current Bengal, Fusly, and Willaity year, 1207, in the districts wherein these eras are current respectively [Fusly, 1215 in the Ceded Provinces]; and shall exhibit the required particulars respecting the malguzary and la-khiraj lands in the several pergunnahs, as they stood at the commencement of that year, of each era, so as to correspond with the quinquennial register of estates paying revenue to Government, No. 2, and the periodical registers of lands held exempt from the payment of revenue, No. 2, which, by the Regulations above referred to, are ordered to commence with the year 1207 of the era current in each province [Fusly, 1215, in the Ceded Provinces]. This original pergunnah register is to be numbered 1. A similar general register is to be prepared at the commencement of the Bengal, Fusly, and Willaity year, 1212 [Fusly, 1220 in the Ceded Provinces], to be numbered 2; and thereafter, at

the commencement of every fifth succeeding year, to be numbered in the order in which it may be formed.—Reg. VIII., 1800, sec. iv.; Reg. XLII., 1803, sec. xxxiii.

54. For the purpose of recording any alterations in the particulars required to be entered in the quinquennial pergunnah registers, which may take place during the interval of five years, the period prescribed for the formation of them, an intermediate pergunnah register shall be kept under the same heads as directed for the general registers, in which all pergunnah annexations or separations, all divisions or transfers of estates, all new information obtained respecting the measurement or rents of land, all resumptions of la-khiraj exemptions, and generally all alterations in any of the particulars required to be entered in the pergunnah register of lands, malguzary and la-khiraj, shall be duly recorded, as soon as possible after such alterations may have taken place; with a note of reference to such parts of the last formed quinquennial register as may be affected thereby. Provided, however, with respect to all transfers or divisions of estates in which an allotment of the public assessment may be necessary, under the rules prescribed in Section X., Regulation I., 1793 ("SETTLEMENT," paragraph 10), or any other Regulation, that no such transfer or division shall be registered until the assessment has been allotted as required by the Regulations; nor shall any entry in the pergunnah register be considered to affect the rights of Government, either with regard to lands assessed with the public revenue, or the lands held exempt from such assessment.—Reg. VIII., 1800, sec. v.; Reg. XLII., 1803, sec. xxxiv.

55. The Board of Revenue are to furnish the collectors of the several zillahs with a form for the pergunnah register, which is to be kept in the Persian language, by the keepers of the native records, with the assistance of such other native officers as may be appointed for this purpose. But the collectors are to attest every page of the register prepared by them after ascertaining that it is accurate; and are to cause the quinquennial register to be bound up, as soon as completed, in a volume or volumes of uniform dimensions, each leaf of which having been previously paged, is to be signed by the zillah judge (or by the city judge in the province of Benares), with a specification, on the last leaf of each volume, of the total number of pages contained in it, in the handwriting of the judge, as prescribed by the existing Regulations with respect to the other registers thereby required. The intermediate register is also to be bound up, paged, and attested, at the end of every Bengal, Fusly, or Willaity year, in the same manner as above directed with regard to the quinquennial register; and the collectors are enjoined to be careful that the intermediate register is at no time allowed to fall in arrear.—Reg. VIII., 1800, sec. vi.; Reg. XLII., 1803, sec. xxxv.

56. The pergunnah register to commence with the current year [Fusly, 1215, in the Ceded Provinces] is to be prepared from the papers which have been already furnished by the proprietors and farmers of lands paying revenue, or by the holders of land exempt from the payment of revenue, for the registers of these lands respectively, required to be kept by paragraph 1, and by Regulations XIX. and XXXVII., 1793, and Regulations XLI. and XLII., 1795, and Regulations XXXI. and XXXVI., 1803 ("LA-KHIRAJ"), as well as from any other materials which may have been procured for the quinquennial registers of estates paying revenue and the periodical registers of exempted lands, directed to be prepared at the commencement of the current Bengal, Fusly, and Willaity year, 1207 [Fusly, 1215, in the Ceded Provinces]. Should any further papers or information be found requisite for the exact ascertainment of portions of estates situated within different pergunnahs, or the precise number and names of villages appertaining to the several estates in each pergunnah, or for the purpose of ascertaining any of the particulars to be specified under the three first heads of the malguzary part of the pergunnah register, or the four first heads of the la-khiraj part of the register, as stated in paragraphs 51 and 52, the collectors are authorized to require the same from the proprietors, farmers, and under-tenants of malguzary lands, or from the holders of la-khiraj lands, in the same manner as they are authorized by the Regulations above mentioned to require from such persons any information that may be necessary to enable them to form the registers therein prescribed, and under the same penalties for non-compliance. But the collectors are not to require from the proprietors or farmers of malguzary lands, or from their under-tenants, any papers or information respecting the measurement or rents of such lands, nor from the holders of la-khiraj lands any papers or information respecting the rents of lands of this description, for the purpose of entering the same in the pergunnah register; it being intended only that the measurement and rents of malguzary lands, and the rents of la-khiraj lands, should be entered in the register, when the same may be ascertained by public measurements, khas collections, attachments, or such other occasional means as may furnish the necessary information for completing these subsidiary heads of the pergunnah register, which are to be left blank until such information may be obtained.—Reg. VIII., 1800, sec. vii.; Reg. XLII., 1803, sec. xxxvi.

57. The information required to be furnished for the register of intermediate mutations in landed property and the register of intermediate resumptions or other occurrences respecting grants of exempted lands, will furnish the collectors with the necessary materials for the intermediate pergunnah register prescribed by paragraph 54; but if any further information should be requisite,

they are authorized to require the same, under the provisions and restrictions specified in the preceding paragraph.—Reg. VIII., 1800, sec. viii.; Reg. XLII., 1803, sec. xxxvii.

58. The general register for the current year and subsequent intermediate register, if duly kept up, must furnish the collectors with full materials for the quinquennial pergunnah register to be prepared in the year 1212 [1220 in the Ceded Provinces], and at every future period. They are also to be careful to avail themselves of any occasional means of authentic information from public measurements, attachments, or otherwise; and it is expected that, in the course of time, their pergunnah registers will contain an accurate statement of the lands and rents throughout their respective districts. To promote the former object, they are further directed to note the boundaries of villages, or other subdivisions, whenever the same may be ascertained; and also, as far as practicable, the limits of the pergunnahs (or other local divisions where there may be no pergunnahs) within their respective collectorships. No change in the existing limits of pergunnahs, or in the mehauls composing them, is to be made by the collectors without the sanction of the Governor-General in Council; but if any collector should judge it expedient to alter the existing boundaries of a pergunnah, for the purpose of rendering it more compact, or otherwise, or to separate any village, talook, or other mehaul from the pergunnah to which it may be now attached, and annex it to any other pergunnah, he shall state his reasons at large for such alterations to the Board of Revenue, who will submit the same to the Governor-General in Council, with their opinion upon the expediency of the alterations proposed, for his determination. Provided that whenever any such pergunnah separation or annexation may take place, it shall in no respect affect the rights of the proprietor or occupant of any village, talook, or other mehaul included therein; and provided further, that the above restriction against the alteration of existing pergunnahs without the sanction of the Governor-General in Council, shall not be considered to preclude the collector from re-annexing to their proper pergunnah any mehauls which may have been separated therefrom by the landholders since the commencement of the Bengal, Fusly, or Willaity year 1197 [Fusly, 1209, in the Ceded Provinces], and formed into separate turruffs or otherwise.—Reg. VIII., 1800, sec. ix.; Reg. XLII., 1803, sec. xxxviii.

59. Whenever any lands may be ordered to be separated from one zillah and annexed to another, the collector of the zillah from which the separation may be made is to transmit to the collector of the zillah to which the annexation is to be made, an attested copy of all entries relative to the lands transferred in the last formed quinquennial pergunnah register, as well as any entries relative thereto in the subsequent intermediate register, together with any other information that may have been obtained respecting such lands. These documents will enable the collector of the zillah to which the lands may be annexed to make the necessary entry of them in his intermediate pergunnah register, as well as in the new general register, that may be prepared by him.—Reg. VIII., 1800, sec. x.; Reg. XLII., 1803, sec. xxxix.

60. Whenever any new village may be established upon lands paying revenue to Government, the name of which shall not have been included in the list of villages delivered to the collectors for the purpose of preparing the prescribed registers of these lands, the proprietor of the estate in which such new village may be situated, or the farmer if the estate be let in farm by Government, or the serberakar or khas-officer who may have the management of the estate, if it be a serberakary or khas mehaul, is to give notice to the collector immediately on the establishment of such new village, that the same may be entered in the public registers. In default thereof, or in the event of its appearing that any village or other portion of an estate subject to the payment of revenue has been wilfully omitted in the village statements which the collectors are authorized to require for the purpose of preparing the public registers, the village, or other portion of an estate so wilfully omitted, shall be liable to forfeiture to Government, if the statement which ought to have contained it shall have been furnished by the proprietor; or if furnished by a farmer, serberakar, sezawul, or other officer, the person who may have furnished the same shall be liable to a fine to Government, in such amount as the Governor-General in Council, on consideration of the circumstances of the case, may think proper to impose. The collectors are to report all cases of this nature to the Board of Revenue, who are to submit the same, with their sentiments, for the determination of the Governor-General in Council.—Reg. VIII., 1800, sec. xx.; Reg. XLII., 1803, sec. xl.

61. That the collectors may be regularly informed of all future changes in the property of malguzary estates or la-khiraj tenures within their respective zillahs, for the purpose of entering the same in the prescribed registers, all persons succeeding to the property of any malguzary estate or la-khiraj tenure, whether by inheritance, purchase, gift, or otherwise, are required to notify such succession, immediately after the same may have taken place, to the collector of the zillah in which the estate or tenure succeeded to may be situated; and to furnish such information as may be necessary to enable the collector to make the prescribed entries in the public registers. The collectors, on receiving the notification, are to make such inquiry as may appear necessary to ascertain the truth of the alleged succession to, or transfer of the property: and if the same shall appear to have taken place, are to make the requisite entries in the intermediate pergunnah register, in the intermediate

register of mutations in lands paying revenue, and the intermediate register of occurrences respecting lands held exempt from the payment of revenue; provided, with regard to all such entries, that they shall not in any degree affect the rights of any party whose name may be registered therein as the ostensible proprietor of the land, or whose name may not have been registered as the proprietor, but who may establish a right of property in the Dewanny Adawlut, or otherwise. Any person succeeding to the property of a malguzary estate or la-khiraj tenure, who may not give the notification above required to the collector, or any person who may wilfully misrepresent to the collector his having succeeded to the property of an estate or tenure, to which, on inquiry, it may appear he has not succeeded, shall, for such omission or misrepresentation, be liable to a fine to Government, to be fixed by the Governor-General in Council on a report from the collector, through the Board of Revenue, of the nature and circumstances of the case. When the person succeeding to the estate or tenure may be a minor, or otherwise disqualified from giving himself the notice required, his guardian, or whoever may act for him in the management of the estate or tenure succeeded to, is to give the information required, under the prescribed penalty.—Reg. VIII., 1800, sec. xxi.; Reg. XLII., 1803, sec. xli.

62. A sufficient number of officers shall be appointed to assist the native record-keepers appointed under paragraphs 67 to 73 in keeping the pergunnah register herein prescribed, as well as the Persian counterparts of the registers of estates paying revenue, and lands exempted from the payment of revenue, and in preparing the copies of these counterpart registers directed to be transmitted to the accountant of the Board of Revenue. The collectors shall furnish the Board of Revenue with a statement of the additional establishments of native officers which they may consider indispensably necessary to enable them to perform the duties above mentioned, and of the allowances proposed to be granted to such officers respectively. The collectors are at the same time to report to the Board of Revenue what parts of their present establishments can be appropriated to the payment of such allowances, and whether they would recommend any of the native officers now acting under them to be employed as proposed. They are also to report whether any and what number of native writers will be required to keep up the English registers of estates paying revenue, and lands exempted from payment of revenue, in addition to their assistants, who are to be employed upon this duty as far as their other business will permit; and it is expected that the collectors themselves will give constant attention to the English registers for all entries in which they are declared responsible, particularly to the registers of intermediate mutations, resumptions, and other occurrences in which the utmost accuracy is essentially necessary, and the transactions entered in which being occasional only, the entries can be easily made by the collectors themselves in the original registers.—Reg. VIII., 1800, sec. xvii.; Reg. XLII., 1803, sec. xlii.

63. On receipt of the reports required from the collectors by the preceding paragraph, the Board of Revenue are to submit to the Governor-General in Council the necessary establishments of native officers for keeping up the several registers prescribed; and if any additions to the present establishments should appear to them indispensably necessary for the purpose, they are to state the same to the Governor-General in Council for his determination. The officers so appointed, or who may be hereafter appointed for the purposes specified in the preceding paragraph, shall not be removable without proof of misconduct, to the satisfaction of the Board of Revenue. They are to be exclusively employed in preparing and copying the prescribed registers, whilst any part of these shall be in arrear; and after completing the register directed to be prepared for the current year, are, with the least possible delay, to complete the registers in arrear for former years; but the preparation of the current year's registers is not to be delayed for those of former years, unless the collectors shall judge it advisable in any instance, from the forward state of their registers for past years, or otherwise; in which case they are to report the same to the Board of Revenue, and to be guided by their instructions.—Reg. VIII., 1800, sec. xviii.; Reg. XLII., 1803, sec. xliii. (NOTE.—*The words underlined are omitted in the latter rule.*)

64. No part of the preceding rules is to be considered to preclude any person who may deem himself entitled to any estate, or portion of an estate, paying revenue to Government, which may be entered in the periodical register, or the registers of intermediate mutations, as the property of any other person or persons, from suing for the same in the Court of Dewanny Adawlut in which the claim may be cognizable.—Reg. XLVIII., 1793, sec. xxx.; Reg. XIX., 1795, sec. xxviii.; Reg. XLII., 1803, sec. xliv.

*Cuttack.*

65. The collectors of the revenue in the zillah of Cuttack shall be guided, in preparing the different registers of landed property in that zillah, by the Regulations in force for that purpose in the province of Bengal; provided, however, that the first periodical register to be prepared shall commence with the Willaity year 1216, and shall exhibit the estates, and the required particulars respecting them, as they may stand at the commencement of that year. The periodical register to be

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formed at the commencement of the Willaity year 1211, and every succeeding five years, shall exhibit the estates as they may stand at that and each subsequent period.—Reg. XII., 1805, sec. x.

66. The register to be first formed, and to commence with the Willaity year 1216, shall be numbered two; the register to be next formed, commencing with the Willaity year 1211, shall be numbered one; the register to be next formed at the commencement of the Willaity year 1221, shall be numbered three: and every subsequent periodical register in the order in which it may be formed. —Reg. XII., 1805, sec. xi.

## REVENUE RECORDS AND RECORD KEEPERS.

67. An office shall be established in each zillah for keeping all records and papers in the native languages, which in any respect relate to the public revenue.—Reg. XXI., 1793, sec. ii.; Reg. XXX., 1795, sec. ii.; Reg. XXIII., 1803, sec. ii.

68. The office shall be superintended by two natives, who shall form a part of the establishment of the collector, and shall be styled "Keepers of the revenue records in the native languages." They shall be appointed by the Governor-General in Council, and shall not be removable but for misconduct proved to his satisfaction. The office, however, is expressly declared not to be hereditary. —Reg. XXI., 1792, sec. iii.; Reg. XXIII., 1803, sec. iii.

69. The keepers of the records are to keep a register, in the Bengal and Persian languages, in Bengal and Orissa, and in the Persian language in the other provinces, of all accounts, papers, and documents, in any respect relating to the public revenue, in a book or books which shall be paged, and each leaf of which shall be attested by the judge of the Dewanny Adawlut of the zillah, and who shall insert in his own handwriting, on the last leaf of each book he may so attest, the number of pages contained in it. The accounts and papers now deposited in the several zillahs are to be first entered in the register, and the keepers of the records are to prepare a list of them, for that purpose, immediately upon the receipt of this Regulation.—Reg. XXI., 1793, sec. iv.; Reg. XXIII., 1803, sec. iv.

70. The keepers of the records, or one of them, shall indorse on the back of every paper which may be registered, the number of the page in which it may be registered, and attest the indorsement with his or their official signature.—Reg. XXI., 1793, sec. v.; Reg XXIII., 1803, sec. v.

71. The keepers of the records are to be careful that the accounts and other records are not destroyed by insects, damp, or otherwise, and that they are not removed from the office of the collector without his express orders.—Reg. XXI., 1793, sec. vi.; Reg. XXIII., 1803, sec. vi.

72. If any papers or records entered in the register shall be destroyed, in consequence of the neglect or any omission of the keepers of the records, or if any such records or papers shall not be forthcoming, and they shall not be able to give a satisfactory account of them, they shall be liable to dismission from their office.—Reg. XXI., 1793, sec. vii.; Reg. XXIII., 1803, sec. vii.

73. The keepers of the records are enjoined to attend to all rules or orders respecting the duties of their office, which may be prescribed to them by any Regulation printed and published by order of Government, and also to any directions respecting the better keeping, preserving, or registering the accounts and other records of the zillah, which may be issued to them by the collector, under whose superintendence they are to perform the duties of their office.—Reg. XXI. 1793, sec. viii.; Reg. XXIII., 1803, sec. viii.

### FEES FOR REGISTRY.

74. Fees, at the following rates, shall be levied by the collectors of the revenue on the registry of any division or union of an estate or estates, or of lands held exempt from the payment of revenue. —Reg. XV., 1797, sec. ii., cl. 1; Reg. XXIII., 1803, sec. ix., cl. 1.

75. On any division of an estate, or union of estates, paying revenue to Government, that may take place under the Regulations, at the rate of one-quarter or four annas per cent. on the annual jumma of revenue payable to Government from the property included in the union or division.— Reg. XV., 1797, sec. ii., cl. 2; Reg. XXIII., 1803, sec. ix., cl. 2.

76. On any division of lands exempt from the payment of public revenue, or any union of such lands, forming originally part of the same grant, made by the proprietor or proprietors of the grant, at the rate of two and a half per cent. on the amount of the annual produce of the property included in the union or division.—Reg. XV., 1797, sec. ii., cl. 3; Reg. XXIII., 1803, sec. ix., cl. 3.

77. Fees, at the following rates, shall be levied by the collectors on the registry of any transfer of the whole or the part of an estate or estates, or lands held exempt from the payment of revenue, by deed of sale, or gift, or otherwise.—Reg. XV., 1797, sec. iii., cl. 1; Reg. XXIII., 1803, sec. x., cl. 1.

78. If the estate shall be subject to the payment of revenue to Government, one quarter, or four

annas per cent. on the annual jumma or revenue payable to Government from the property transferred.—Reg XV., 1797, sec. iii., cl. 2; Reg. XXIII., 1803, sec. x., cl. 2.

79. If the lands shall be held exempt from the payment of revenue to Government, two and a half per cent. on the amount of the annual produce of the lands transferred.—Reg. XV., 1797, sec. iii., cl. 3; Reg. XXIII., 1803, sec. x., cl. 3.

80. Throughout these rules, by the annual jumma payable to Government is to be understood the amount of the revenue payable to Government, for the year in which the division, union, or transfer may be registered, according to the permanent settlement; or the engagements of the farmers, if the lands be farmed; or the estimated receipts, if no settlement of the lands shall have been concluded on the part of Government, either with the proprietors or with farmers; and by the annual produce of lands held exempt from the payment of revenue, is to be understood the amount of the rents received and receivable by the proprietor or the possessor of the lands, on account of the year preceding the year in which the division, union, or transfer, may be registered; and the person in possession of such accounts shall be bound to produce them on a written requisition from the collector, and shall be subject, for non-compliance therewith, to the payment of such daily fine, not exceeding fifty rupees, until the accounts be produced, as the collector may think proper to impose, on a consideration of the situation and circumstances in life of the party.—Reg. XV., 1797, sec. iv.; Reg. XXIII., 1803, sec. xi.; Act XX., 1848.

NOTE.—See further rules in Act XX., 1848.

81. The amount of the fees and fines leviable under these rules shall be payable to the collector on his demand; and if not discharged, shall be leviable by the same process as the payment of arrears of revenue due to Government may be enforced.—Reg. XV., 1797, sec. v.; Reg. XXIII., 1803, sec. xii.

82. No person shall be liable under these rules to the payment of a greater sum than one hundred rupees, on account of any transfer of an estate, or part of an estate, or of lands held exempt from the payment of revenue; or any division of an estate, or the union of any estates, or of lands held exempt from the payment of revenue; and accordingly, when the fee on any such transaction would, calculating according to the rates above prescribed, amount to a greater sum than one hundred rupees, the excess above that sum shall not be demanded or received.—Reg. XV., 1797, sec. vi.; Reg. XXIII., 1803, sec. xiii.

83. The fees on the division of any estate, or the union of estates paying revenue to Government, leviable under paragraphs 74, 75, and 76, shall be paid, on the registry of the same, by the party or parties who are bound to pay the charges attending the division of estates, under the rules prescribed in Regulation XIX., 1814, and in the same proportions. If the property divided or united be lands held exempt from the payment of revenue, the fees shall be paid by the parties in whose names the property may be registered, in the proportion of their respective interests therein.—Reg. XV., 1797, sec. vii.; Reg. XXIII., 1803, sec. xiv.

84. The fees on the transfer of landed property, by deed of sale, or gift, or otherwise, leviable under paragraphs 77, 78, and 79, shall be paid by the party to whom the property may be transferred, on the transfer being entered in the public registers of lands.—Reg. XV., 1797, sec. viii.; Reg. XXIII., 1803, sec. xv.

85. All sums which may be received by the collectors under these rules shall be carried to the account of Government, and the collectors are required to grant receipts to the parties for the amount which may be paid by them respectively.—Reg. XV., 1797, sec. ix.; Reg. XXIII., 1803, sec. xvi.

# LAND REVENUE.

## COURT OF WARDS.

### TABLE OF ENACTMENTS.

| Original Regulation or Act. | Paras. in Consolidation. | REMARKS. |
|---|---|---|
| 1793. X. i. | 1 | |
| ii. | 5 | Part omitted under sec. iii., Reg. L., 1795; and sec. ii., Reg. VII., 1796. |
| iii. | 7 | |
| iv. | 9 | |
| v. 1. | 10 | Part omitted under sec. iii., Reg. L., 1795. |
| 2, 3. | 13, 14 | |
| 4. | | Rescinded by sec. ii., Reg. VII., 1796. |
| 5, 6. | 16, 17 | |
| vi., vii. | 19, 20 | |
| viii. | | Rescinded by sec. xxvi., Reg. VII., 1799. |
| ix. to xvii. | 22 to 31 | |
| xviii. to xxxi. | 35 to 48 | Modification from Reg. XXVI., 1793, introduced into sec. xxviii. |
| xxxii. 1. | 49 | Modification from sec. ii., Reg. LV., 1795, added. |
| 2. | 50 | |
| xxxiii. to xxxvi. | 51 to 54 | |
| 1793. XXVI. ii. | 45 | Incorporated with sec. xxviii., Reg. X., 1793. |
| 1793. L. ii. | 33 | |
| iii., iv. | 11, 12 | |
| v., vi. | 32, 34 | |
| 1795. LV. ii. | 49 | Added to cl. 1, sec. xxxii., Reg. X., 1793. |
| 1796. III. ii. | 8 | Part omitted, as extinct. |
| 1796. VII. ii. | | A rescinding rule; unnecessary. |
| iii. to v. | | Extinct. |
| 1799. VII. xxvi. | 21 | |
| 1803. LII. ii. | 2 | |
| iii. | 6 | |
| iv. | 7 | |
| v. | | See "Civil Judicature," "Rules Common to Courts," paragraphs 79 to 83. |
| vi. | 57 | First part superseded by sec. x., Act I., 1845. |
| vii., viii. | 8, 9 | |
| ix. 1. | 10 | |
| 2 to 6. | 13 to 17 | |
| x. to xxi. | 19 to 31 | |
| xxii. to xxxv. | 35 to 48 | |
| xxxvi. 1. | 49 | Modifications from cl. 7, sec. xxix., Reg. VIII., 1805, added. |
| 2. | 50 | |
| xxxvii. to xl. | 51 to 54 | |
| xli. | | "Realization of Rent," paragraph 6. |
| 1805. VIII. | | |
| xxix. 1. | | Unnecessary. |
| 2. | 33 | |
| 3, 4. | 11, 12 | |
| 5, 6. | 32, 34 | |
| 7. | 49 | Added to cl. 1, sec. xxxvi., Reg. LII., 1803. |
| 8 to 14. | | See "Civil Judicature," "Rules Common to Courts," &c., paragraphs 67 to 74. |
| 1822. VI. ii. | 3 | |
| iii. | 55, 56 | |
| iv. | 18 | |
| 1829. I. iv. 1. & vi. | 4 | |

# LAND REVENUE.

## COURT OF WARDS.

*Lower Provinces.*

1. The Board of Revenue was on the 20th August, 1790, constituted a Court of Wards, with powers to superintend the conduct and inspect the accounts of the managers of estates of persons disqualified for the management of their own lands.—Reg. X., 1793, Preamble.

*Ceded and Conquered Provinces.*

2. The Board of Revenue is hereby constituted a Court of Wards for the superintendence of the persons and estates of zemindars, and other actual proprietors of land paying revenue to Government, who are or may be disqualified for the management of their own lands in consequence of their coming under any of the descriptions of disqualified landholders specified in paragraph 6.—Reg. LII., 1803, sec. ii.; Reg. VIII., 1805, sec. xxix.

*Benares.*

3. Regulation LII., 1803, with the addition contained in Section XXIX., Regulation VIII., 1805, is hereby extended to the province of Benares, and the Board of Revenue is constituted a Court of Wards for that province, under the above rules.—Reg. VI., 1822, sec. ii.

*General Rule.*

4. The Commissioners of Revenue and Circuit appointed under Regulation I., 1829, shall, until otherwise specifically provided for by law, possess and exercise within the several districts comprised in their respective divisions, the powers and authority now vested in the Boards of Revenue and Courts of Wards, subject to the control and direction of a Sudder or Head Board, to be ordinarily stationed at the presidency, unless otherwise directed by the Governor-General in Council; and to such restrictions and provisions as the Governor-General in Council or the said Sudder Board, with his authority or sanction, may prescribe. And such of the provisions of the existing Regulations for defining the powers of the Courts of Wards, or of single members thereof, as may be inconsistent with the arrangements prescribed by Regulation I., 1829, are and shall be considered annulled.—Reg. I., 1829, sec. iv., cl. 1, and sec. vi.

*Lower Provinces.*

5. The superintendence of the Court of Wards extends to the persons and estates of all proprietors disqualified, under the rules prescribed for the decennial settlement, for the management of their own lands, viz., all proprietors of entire estates paying revenue immediately to Government, who are or may be females not deemed competent to the management of their own estates; as well as minors, idiots, lunatics, or others, rendered incapable of managing their estates by natural defects or infirmities of whatever nature. To prevent misconstruction, it is declared that, by the terms "all proprietors of entire estates paying revenue immediately to Government," are meant, every such disqualified person who may be the sole proprietor of an estate, and any two or more persons, being proprietors of the whole of an estate, both or all of whom may be so disqualified.—Reg. X., 1793, sec. ii.

*Ceded and Conquered Provinces and Benares.*

6. With the exception specified in paragraph 8, the superintendence of the Court of Wards shall extend to the persons and estates of all proprietors of entire estates paying revenue immediately to Government, who are or may be females not deemed by the Governor-General in Council competent to the management of their own estates, minors, idiots, lunatics, or others, rendered incapable of managing their estates by natural defects or infirmities of whatever nature; as well as all proprietors of such estates, who are or may be deemed disqualified on account of notoriously bad character. To prevent misconstruction, it is declared, that by the terms "all proprietors of entire estates paying revenue immediately to Government," are meant every such disqualified person who may be the sole proprietor of an estate, and any two or more persons, being proprietors of the whole of an estate, both or all of whom may be so disqualified.—Reg. LII., 1803, sec. iii.

*General Rules.*

7. The superintendence of this Court is not to extend to proprietors of estates not paying revenue immediately to Government, nor to joint proprietors of estates paying revenue immediately to Government, both or all of whom may not be of the descriptions specified in paragraph 5. To

such proprietors, managers, and guardians, these rules are in no respect to be held applicable.—Reg. X., 1793, sec. iii.; Reg. LII., 1803, sec. iv.

8. The ordinary jurisdiction of the Court of Wards is declared to extend to such estates only as devolve to disqualified landholders, in the regular course of inheritance, on the demise of the party from whom they inherit the same; and all landed estates, whether subject to or exempt from the payment of revenue, which have or may become the property of any disqualified landholder by purchase, gift, or in virtue of any other right, excepting that of inheritance as aforesaid, are declared exempt from the jurisdiction and authority of the Court of Wards, and if subject to the payment of public revenue, shall be liable to sale for arrears thereof, and all other demands on the part of Government, in the same manner as if the proprietor or proprietors were not under any disqualification. Provided, however, that it shall be competent to the Governor-General in Council to commit to the charge of the Court of Wards any estate paying revenue to Government, being the sole property of any disqualified person, or of any two or more persons, both or all of whom may be disqualified, although the same shall not have descended to such person or persons in the regular course of inheritance as aforesaid, and also any la-khiraj lands belonging to such proprietor or proprietors, whenever the same shall appear to him for the interests of Government and the proprietor or proprietors; and such estate and lands so committed to the charge of the Court of Wards shall be exempt from sale for arrears of revenue accruing whilst they shall be under the charge of the Court, and shall be considered in all respects, as far as regards the management of them by the Court, the same as if they had devolved to the proprietor or proprietors in the regular course of inheritance as aforesaid, and the proprietor or proprietors shall in all respects be treated by the Court accordingly.—Reg. III., 1796, sec. ii.; Reg. LII., 1803, sec. vii.

9. The collectors of the revenue are to ascertain and report to the Board of Revenue, both now and hereafter, what proprietors in their respective zillahs may come within the descriptions of disqualified landholders specified in paragraph 5, and the following rules are prescribed for ascertaining the existence of the stated ground of disqualification in the first instance, and also for enabling proprietors of certain descriptions, who may have been declared disqualified, to recover the management of their estates when the ground of their disqualification may be removed.—Reg. X., 1793, sec. iv.; Reg. LII., 1803, sec. viii.

10. If a proprietor of land shall be reported disqualified solely from being a female, the Board of Revenue, in their capacity of a Court of Wards, shall immediately proceed to take the estate under their care, reporting the circumstance to the Governor-General in Council.—Reg. X., 1793, sec. v., cl. 1; Reg. LI., 1803, sec. ix., cl. 1.

11. The Court of Wards are empowered to invest female proprietors of land with the management of their own estates in cases in which the Court may be fully satisfied that they are competent to the charge from their capacity and habits of business. The Court are immediately to report to the Governor-General in Council every instance in which they may exercise the powers vested in them by this rule, with the grounds on which they may deem the proprietors qualified for the management of their lands.—Reg. L., 1793, sec. iii.; Reg. VIII., 1805, sec. xxix., cl. 3.

12. Female proprietors who may be exempted from the operation of the Regulations regarding disqualified landholders, in virtue of the rule contained in the preceding paragraph, are to execute the same engagements as other proprietors who are held qualified for the management of their lands.—Reg. L., 1793, sec. iv.; Reg. VIII., 1805, sec. xxix., cl. 4.

13. If a collector shall report a proprietor of land to be disqualified on the ground of minority, the Board of Revenue, in their capacity of a Court of Wards, provided they shall see no reason to doubt the nonage of the proprietor, are to take the estate under their care, and report the circumstances to the Governor-General in Council. If a collector shall report any proprietor to be a minor, and the proprietor, or any person on his behalf, shall deny that he is under age, such proprietor or person shall be at liberty to represent the circumstances to the Court of Dewanny Adawlut of the zillah wherein the estate may be situated, the judge of which shall forward the representation to the Sudder Dewanny Adawlut, which Court shall issue a precept, under the seal of the Court and attested by the register, to the judge of the zillah, to call the proprietor before the Court, and ascertain his age by the evidence, on oath or affirmation, of not less than three credible persons well acquainted with him, and also by such other inquiries as may appear to the Court calculated to ascertain the truth, and certify its proceedings, including any representations or evidence that the proprietor, or any person on his behalf, may have to adduce, with its opinion on the case, to the Sudder Dewanny Adawlut, which Court shall determine whether such proprietor be a minor or not. The decision of the Sudder Dewanny Adawlut shall be final, and the Court shall certify a copy of its decision to the Governor-General in Council, who will order the estate to be put under the charge of the Court of Wards or not, according as the proprietor may be adjudged by the Sudder Dewanny Adawlut to be a minor or otherwise.—Reg. X., 1793, sec. v., cl. 2; Reg. LII., 1803, sec. ix., cl. 2.

14. If a proprietor of land shall be deemed disqualified on the ground of lunacy, idiotism, or other disqualifying natural defect or infirmity, the Board of Revenue are to order the collector to

represent the circumstances, through the vakeel of Government, to the Court of Dewanny Adawlut of the zillah, the judge of which shall transmit a copy of the representation to the Sudder Dewanny Adawlut. This Court shall issue a precept to the judge of the zillah within the jurisdiction of which the proprietor may reside, to bring him before the Court, to ascertain his actual state by ocular proof; and the Court shall further take the declaration, upon oath or affirmation, of no less than three credible persons acquainted with the party, setting forth their opinion of his condition, with the grounds of it. The Court is to transmit all its proceedings, with its opinion on the case, to the Sudder Dewanny Adawlut, which Court shall determine finally whether the stated ground of disqualification be well founded or not, and certify a copy of its decision to the Governor-General in Council, who will order the Court of Wards to take the estate of the proprietor under their care or not, according as the proprietor may be adjudged by the Sudder Dewanny Adawlut to be disqualified or otherwise.—Reg. X., 1793, sec. v., cl. 3; Reg. LII., 1803, sec. ix., cl. 3.

*Ceded and Conquered Provinces and Benares.*

NOTE.—The parallel rule for the Lower Provinces in cl. 4, sec. v., Reg. X., 1793, was rescinded by sec. ii., Reg. VII., 1796.

15. If a proprietor of land shall be deemed disqualified on the ground of notoriously bad character, the Board of Revenue shall instruct the collector to submit a statement of the circumstances, through the vakeel of Government, to the judge of the Adawlut of the zillah, who shall forward it to the Sudder Dewanny Adawlut. This Court shall issue a precept to the judge of the zillah to inquire into the circumstances of the case, in the presence of the party or his vakeel, who are respectively to be allowed to produce any evidence which they may have to adduce. The Court shall report the result of its proceedings, with its opinion on the case, to the Sudder Dewanny Adawlut, which Court shall finally determine whether the stated ground of disqualification be well founded or not, and report its decision to the Governor-General in Council, who will order the estate to be committed to the charge of the Court of Wards or not, according as the proprietor may be adjudged by the Sudder Dewanny Adawlut to be disqualified or otherwise.—Reg. LII., 1803, sec. ix., cl. 4.

*General Rules.*

16. Persons not born in a state of idiotism, but who may have been declared by the Sudder Dewanny Adawlut disqualified as lunatics, are to be produced annually before the judge of the Dewanny Adawlut in the jurisdiction of which they may reside, or oftener if he shall think fit, in order to ascertain whether they be restored to sanity or otherwise; and if, in any instance, the ground of disqualification shall appear to the judge to be completely removed, he shall immediately report the same, with a full relation of the circumstances of the case, to the Sudder Dewanny Adawlut, which Court shall finally determine whether the ground of disqualification be removed or not. The Court is to communicate its decision to the Governor-General in Council, who will order the Court of Wards to deliver over charge of the estate to the proprietor or not, according as the ground of his disqualification may be adjudged by the Court removed or otherwise.—Reg. X., 1793, sec. v., cl. 5; Reg. LII., 1803, sec. ix., cl. 5.

17. Any person who may have been adjudged disqualified, on any of the grounds specified in paragraphs 13, 14, 15, and who may deem the ground of his disqualification removed, shall be at liberty to represent the circumstances to the judge of the Dewanny Adawlut of the zillah, who shall forward the representation to the Sudder Dewanny Adawlut. This Court shall issue a precept to the judge of the Zillah Court, to inquire into the case, and to receive such evidence as the disqualified proprietor may have to offer in support of his representation. The Court is to report the result of its inquiry, with its opinion thereon, to the Sudder Dewanny Adawlut, which Court shall determine finally whether the ground of disqualification be or be not removed, and report its decision to the Governor-General in Council, who will order the Court of Wards to restore the proprietor to the management of his lands or not, according as the ground of disqualification may be adjudged by the Sudder Dewanny Adawlut to be removed or otherwise.—Reg. X., 1793, sec. v., cl. 6; Reg. LII., 1803, sec. ix., cl. 6.

18. The several Courts of Wards are hereby vested with a discretion to refrain from interfering with the estates of minors, or other disqualified proprietors, in cases wherein they may deem their interposition unnecessary or inexpedient; provided, however, that no estate, the sole property of a minor, and descended to him by the regular course of inheritance, shall, during his minority, be sold for arrears of revenue accruing subsequently to his accession to the same: but the revenue authorities shall, on an arrear so accruing, be authorized to farm the estate for a period not exceeding ten years, and it will of course be competent to the Courts of Wards to assume charge of such estates at any time during the minority of the proprietor, notwithstanding they may have originally refrained from interfering.—Reg. VI., 1822, sec. iv.

19. The trusts of manager for disqualified landholders and guardian to them, are to be considered altogether distinct, but, as hereafter specified, they may in some instances be vested in the same person, and the rules contained in the following paragraphs, relative to managers

and guardians respectively, are founded on this distinction.—Reg. X., 1793, section vi.; Reg. LII., 1803, sec. x.

20. Where the trusts of manager and guardian are vested in different persons, the former is to have the care of the estates real and personal; the latter, the care of the person, maintenance, and if a minor, the education of the ward.—Reg. X., 1793, sec. vii.; Reg. LII., 1803, sec. xi.

21. [The manager, who shall be denominated serberakar, shall be chosen by the collector, subject to the approbation of the Court of Wards; and his commission shall be signed by the collector and authenticated by his official seal. In recommending persons for this trust, capacity for the business, goodness of character, and sufficient responsibility, are to be particularly attended to.]* The managers of the estates of disqualified landholders shall be chosen without any regard to their connexion with the proprietors, or to the will of the disqualified proprietors themselves in the election of such managers, who are to be considered, in every respect, the officers of Government acting under the collectors; and the latter will be held responsible for the nomination of proper persons, both as to character and capacity for the trust.—Reg. VII., 1799, part of sec. xxvi.; Reg. LII., 1803, sec. xii. *(NOTE.—*The words in brackets originally formed part of sec. viii., Reg. X., 1793, which section was rescinded by sec. xxvi., Reg. VII., 1799,—the provisions of the latter section, however, not being inconsistent with the first part of the rescinded section, the two were consolidated in the Oude Regulation.*)

22. The manager, previous to the receipt of his commission, is to give security for his appearance during the continuance of it, and is to execute the following obligation:—

> "I, A. B., having voluntarily taken on myself the management of the estate of C., disqualified proprietor of D., do hereby solemnly promise and engage to manage the said estate diligently and faithfully for the said proprietor; to use every means in my power to improve the same for his or her benefit; and to act, in every respect, to the best of my judgment, for his or her interest, in like manner as if the estate were my own and I were acting for myself. I also promise and engage to render a true and just account of whatsoever may be received by me from or on account of the estate committed to my management; and in the event of it being proved that I have been guilty of any embezzlement, or of any abuse of trust injurious to the property of the above-mentioned proprietor, I do hereby bind myself, my heirs and successors, to make good treble the amount of the embezzlement or injury so proved against me. I further promise and engage to adhere strictly to such Regulations as may be passed for the guidance of managers by the Governor-General in Council, and to such orders as I may receive from the Court of Wards, and to derive no personal advantage whatever, directly or indirectly, from the trust committed to me, beyond the allowance by them granted to me."—Reg. X., 1793, sec. ix.; Reg. LII., 1803, sec. xiii.

23. An allowance to the manager, proportionate to the extent of his trust, and adequate to a full compensation for his trouble, is to be proposed by the collectors and fixed by the Court of Wards; and if it be proved, to the satisfaction of the Court of Wards, that any manager shall have appropriated to his own use, directly or indirectly, any sum of money, or other property, above his fixed allowance, he is declared liable for such embezzlement to the fine specified in his obligation, besides dismission from his trust; and the fine is to be appropriated to the benefit of the estate under his charge.—Reg. X., 1793, sec. x.; Reg. LII., 1803, sec. xiv.

24. An establishment of necessary officers, to act under the manager, is also to be proposed by the collectors and fixed by the Court of Wards. The persons to be employed on this establishment are to be nominated by the manager himself, but approved by the collector, who may object to such as may appear to him disqualified by character or otherwise, and require the manager to appoint others. These orders are to be considered applicable to the manager's sudder establishment, and also to his mofussil establishment, in estates of considerable extent, where mofussil officers may be necessary. Any officer, sudder or mofussil, who may be proved, to the satisfaction of the Court of Wards, to have appropriated to his own use, directly or indirectly, any sum of money, or other property, beyond his fixed allowance, is to be deemed guilty of embezzlement, and to be liable to the same fine as the manager in similar cases, besides dismission from his office.—Reg. X., 1793, sec. xi.; Reg. LII., 1803, sec. xv.

25 The assessment of lands, the property of disqualified proprietors, is to be fixed in like manner as that of other lands; and the following orders have been passed for the guidance of the managers and collectors regarding the payment of this assessment, as well as respecting the general appropriation of the receipts of the managers from the lands under their charge.—Reg. X., 1793, sec. xii., cl. 1; Reg. LII., 1803, sec. xvi., cl. 1.

26. An allowance of ten per cent. on the public revenue assessed on the lands of disqualified proprietors, or of ten per cent. on the actual revenue paid to Government, in the event of the whole of the assessment not being realized, is to be fixed for the support of the proprietors, and such persons of their families as may be entitled to receive a provision from them, and the appointed manager of such lands shall be authorized to pay this allowance monthly, in proportion to his actual monthly

payments of revenue to the collector, and no further. Instead of paying the whole of his receipts to the collector, he is to pay the monthly kists of Government's revenue only to the collector, or such part thereof as he may be able to discharge from his collections, after defraying the charges of his approved establishment and the allowance of the proprietors; but he is to deliver a monthly account current of his receipts and disbursements to the collector, who is to audit the disbursements therein specified, and see that the receipts, after defraying the necessary charges and providing the authorized allowance of the proprietor, have been fairly appropriated to the payment of the revenue due to Government. As the lands of disqualified proprietors are not held answerable for the payment of the revenue assessed thereon, in the event of the neat collections of any year proving inadequate to the payment of the fixed assessment, in addition to the allowance of the proprietor, and of there being a surplus collection in any future year, the collector shall take care that such surplus is appropriated to the discharge of the arrear due to Government, and the proportion of the proprietor's allowance which must also, according to the rule laid down, be at the same time in arrear; or if no such balance be outstanding, he shall see the surplus expended by the manager for the improvement of the lands, or otherwise for the benefit of the estate under his charge.—Reg. X., 1793, sec. xii., cl. 2; Reg. LII., 1803, sec. xvi., cl. 2.

27. By the foregoing rules, ten. per cent. on the revenue assessed or realized is fixed as the general allowance for the support of disqualified proprietors, and such persons of their families as may be entitled to receive a provision from them; but as, in some instances, this allowance may be more than adequate to the expense of suitably maintaining and educating minors, or maintaining other disqualified proprietors, as well as of making a provision for their relations entitled thereto; or, on the other hand, may not be sufficient for these purposes, in some instances where there may be other funds arising from la-khiraj lands, or other resources independent of the malguzary lands, which might be appropriated thereto, the collectors are vested with a discretionary power to reduce the ten per cent. allowance in the former case, and to increase it in the latter, as on a consideration of the rank and circumstances of the parties and the amount of their allowances and other income, they may think proper. They are, however, to report any instances of the exercise of this power in their monthly communications to the Court of Wards, and previous to authorizing any increase of the fixed allowance, are to ascertain with accuracy, that there are la-khiraj lands, or other resources independent of the malguzary lands, fully adequate to make good the same, without which no excess is to be admitted, unless the Governor-General in Council should think proper to grant a dispensation from the general rule, in any particular case that may appear to require it. In the event of any reduction of the allowance fixed for the support of disqualified proprietors, the difference is to be applied by the manager to the benefit of the estate under his charge, to which purpose he is also to apply the income arising from resources independent of the malguzary lands, which the collector, under the discretion above vested in him, may judge unnecessary for the education or maintenance of the proprietors, and the necessary provision of their relations entitled thereto.—Reg. X., 1793, sec. xiii.; Reg. LII., 1803, sec. xvii.

28. Where a distinct guardian may be appointed, as hereafter specified, the manager is to pay to him the amount of the allowance fixed for the maintenance or education of the proprietors, and of the provision for persons of their families entitled thereto, as well as the amount of any resources independent of the produce of the malguzary lands, which the collectors, under the discretion vested in them by the foregoing article, may think it proper to allot for these purposes.—Reg. X., 1793, sec. xiv.; Reg. LII., 1803, sec. xviii.

29. Agreeably to the distinction laid down in paragraph 20, the manager is to have the entire care of the estate, real and personal. He will, therefore, have the exclusive charge of all lands, malguzary or la-khiraj, as well as all houses, tenements, goods, money, and moveables of whatever nature, belonging to the proprietor whose estate may be committed to his charge, excepting only the house wherein such proprietor may reside, the moveables wanted for his or her use, and the money allowed for the support of the proprietor, and his or her family entitled to a provision, which are to be left to the care of the guardian, where distinct guardians may be appointed. Both managers and guardians, on their receiving charge of any property, are to sign an exact inventory of the same, which is to be deposited in the treasury of the collectorship.—Reg. X., 1793, sec. xv.; Reg. LII., 1803, sec. xix.

30. The manager, agreeably to the terms of his obligation, is to manage the estate committed to him diligently and faithfully, for the benefit of the proprietor, and in every respect to act to the best of his judgment for the proprietor's interest, in like manner as if the estate were his own. In instances, however, where he may act for a proprietor under age, not otherwise disqualified, he is not to grant any lease extending beyond the life of the proprietor, or contrary to Regulation XLIV., 1793 ("UNDER-TENURES"), or to dispose of any part of the permanent property committed to his custody, without the sanction of the Court of Wards.—Reg. X., 1793, sec. xvi.; Reg. LII., 1803, sec. xx.

31. In addition to the monthly account current required in paragraph 26, the manager, at the expiration of every year, is to deliver to the collector an annual account current of his receipts and

disbursements, upon oath, with vouchers for the latter (unless the Court of Wards shall be satisfied that it will be for the benefit of their general trust to admit the manager to deliver in such accounts under a solemn declaration of their being true and faithful accounts, in which case they are empowered to receive the accounts under such declaration instead of an oath), and the collector is to audit the disbursements, and take care that the whole of the surplus receipts be duly appropriated, in the manner specified in paragraph 26.—Reg. X., 1793, sec. xvii.; Reg. LIII., 1803, sec. xxi.

32. Where portions of the same estate belonging to a disqualified landholder may be situated in different zillahs, the Court of Wards are empowered to authorize the monthly and annual accounts of the whole estate required to be furnished by the manager, to be rendered to the collector of the zillah in which the principal portion of the estate may be situated, instead of delivering separate accounts for each portion to the collector of the zillah in which it may be included.—Reg. L., 1793, sec. v.; Reg. VIII., 1805, sec. xxix., cl. 5.

33. In cases in which it shall appear to the Court of Wards that the produce of the estate of a disqualified proprietor is insufficient to provide for the expense of a separate establishment for the management of it, in conformity to the preceding rules, the Court are empowered to take such measures as, from the circumstances of the case, may appear to them best calculated for providing for the security of the public revenue and the maintenance of the proprietors of the lands.—Reg. L., 1793, sec. ii.; Reg. VIII., 1805, sec. xxix., cl. 2.

34. In cases in which, from the contiguity of a number of small estates belonging to disqualified proprietors, two or more of them can be conveniently superintended by one manager, the Court are empowered to entrust as many of the estates to the management of the same person as may appear to them advisable.—Reg. L., 1793, sec. vi.; Reg. VIII., 1805, sec. xxix., cl. 6.

35. If the collector should think it unnecessary or unadvisable to appropriate such surplus receipts to the improvement of the lands already under the manager's charge, he shall cause the same to be applied by the manager to the purchase of other landed property, or to interest loans on mortgages, or to the purchase of Government paper securities, as circumstances may render preferable; in which cases he shall transmit the title-deeds and mortgage-deeds of the land purchases or mortgages to the Court of Wards, to be deposited in the general treasury; but as interest will occasionally become payable on the Government paper securities, he shall deposit them in the public treasury under his charge, giving in all cases a receipt to the manager, as well for the title and mortgage deeds as the paper securities. The Court of Wards are also to obtain the sub-treasurer's receipt for the two former when deposited in the general treasury, and are to transmit an attested copy thereof to the collector, to be delivered by him to the manager. The manager shall also deliver any existing title or mortgage deeds or Government securities belonging to the estate under his charge to the collector, who shall, in like manner, return a receipt for the same, and transmit them to the Court of Wards, or deposit them in his public treasury as above directed. Any interest becoming payable on Government securities is to be paid to the manager, to be appropriated by him, in common with other resources, independent of the produce of the malguzary lands, as before mentioned.—Reg. X., 1793, sec. xviii.; Reg. LII., 1803, sec. xxii.

36. Any just debts now outstanding against, or hereafter adjudged against the estates of disqualified landholders, must necessarily be satisfied (if required so to be by the creditors), as far as may be consistent with the rights of Government, to whom the produce of the malguzary lands is mortgaged, in the first instance, for the payment of the public revenue assessed thereon. The circumstances of all such debts, however, are to be immediately reported to the collector, and by him without delay to the Court of Wards, with his sentiments on the best mode of satisfying the same, for their instructions, previous to any payment being made by the manager in discharge of them. In the event of any debts being compounded for a less sum than the full amount, the estate is to be debited by the manager for the actual payment only.—Reg. X., 1793, sec. xix.; Reg. LII., 1803, sec. xxiii.

37. Agreeably to paragraph 20, it will be the province of guardians appointed for disqualified landholders to take care of the person, maintenance, and if a minor, the education of the wards.—Reg. X., 1793, sec. xx.; Reg. LII., 1803, sec. xxiv.

38. The rules contained in paragraph 21, for the election of managers, are to be applied also to the choice of guardians: with these differences, that the guardianship shall in no instance be entrusted to the legal heir, or other person interested in outliving the ward, and that female minors shall have guardians of their own sex. Further, under these restrictions, landholders whose heirs are disqualified may appoint guardians to such heirs by will in writing; and such guardians (provided they be duly qualified), if willing to accept the trust and execute the obligation hereafter specified, shall be preferred. Such testamentary appointments, however, shall in all instances be reported, with the sentiments of the collector, for the confirmation of the Court of Wards, and shall not be deemed valid till confirmed by them.—Reg. X., 1793, sec. xxi.; Reg. LII., 1803, sec. xxv.

39. Landholders disqualified on account of minority, idiotism, lunacy, or other natural defect

or infirmity, rendering them incapable of attending to the care of their own persons and maintenance, will alone require guardians. Female, as well as male proprietors, not so disqualified, may themselves receive and disburse the allowance fixed for their maintenance.—Reg. X., 1793, sec. xxii.; Reg. LII., 1803, sec. xxvi.

40. For persons of the descriptions above mentioned, it is expected that some friend of the party will gratuitously discharge the trust of guardian, appropriating the fixed allowance to the maintenance, and if a minor, to the education also of the ward. Should it, however, in any instance, be found necessary to make a pecuniary compensation to a person to act as guardian, such compensation, after being approved by the Court of Wards, is to be provided from the allowance fixed for the maintenance of the ward.—Reg. X., 1793, sec. xxiii.; Reg. LII., 1803, sec. xxvii.

41. The guardian, previous to the receipt of his commission, is to give security for his appearance during the continuance of it, and is to execute the following obligation:

"I, A. B., having voluntarily taken on myself the guardianship of C., disqualified proprietor of D., do hereby solemnly promise and engage to execute the trust committed to me zealously and faithfully, to the best of my judgment, and according to the regulations which have been or may be prescribed for the guidance of guardians by the Governor-General in Council. I will conscientiously appropriate the allowance fixed for the maintenance, and (if the ward be a minor) the education of my ward, to his (or her) benefit, and will derive no advantage therefrom myself, directly or indirectly, beyond the compensation granted me for my superintendence. I also promise and engage to render a true and just account of whatsoever may be received by me on account of my ward above mentioned; and in the event of it being proved that I have been guilty of any embezzlement, or of any breach of trust injurious to his (or her) property, I hereby bind myself, my heirs and successors, to make good treble the amount of the embezzlement or injury so proved against me."—Reg. X., 1793, sec. xxiv.; Reg. LII., 1803, sec. xxviii.

42. An establishment of necessary servants, to act under the guardian, is to be proposed by the guardian to the collector, and fixed by the Court of Wards, and the several rules and restrictions in paragraph 23, regarding the establishments of managers, are to be considered equally applicable to the establishments of guardians. The expense of the latter is to be defrayed from the allowance fixed for the support of the proprietors.—Reg. X., 1793, sec. xxv.; Reg. LII., 1803, sec. xxix.

43. The guardian is to deliver a monthly account current of his receipts and disbursements to the collector, who shall audit the disbursements therein specified, and see that the receipts have been fairly and duly appropriated. The guardian is also to deliver an annual account current upon oath (unless the Court of Wards shall be satisfied that it will be for the benefit of their general trust to admit the guardian to deliver in such accounts under a solemn declaration of their being true and faithful accounts, in which case they are empowered to receive the accounts under such declaration instead of an oath), with vouchers, to be in like manner audited by the collector; and in the event of any money remaining in his hands which the collector shall think unnecessary for the guardian's expenses in the ensuing year, he shall cause the same to be repaid to the manager, to be applied by him to the benefit of the estate under his charge.—Reg. X., 1793, sec. xxvi.; Reg. LII., 1803, sec. xxx.

44. In cases of minority, where the minor may be a male, the superintendence of his female relations is not to be allowed after the expiration of the fifth year; and on his attaining the age of tuition, it must be the first care of the guardian to procure proper teachers to give him an education suitable to his situation in life.—Reg. X., 1793, sec. xxvii.; Reg. LII., 1803, sec. xxxi.

45. Minority, with respect to both Hindoos and Mahomedans, is limited to the expiration of the eighteenth year.—Reg. X., 1793, sec. xxviii.; Reg. XXVI., 1793, sec. ii.; Reg. LII., 1803, sec. xxxii.

46. The guardians of female minors who, agreeably to paragraph 38, are to be of the same sex, are also to take care that their wards, when arrived at the age of tuition, receive an education suitable to their condition.—Reg. X., 1793, sec. xxix.; Reg. LII., 1803, sec. xxxiii.

47. The trusts of guardian and manager may be united in persons to whom the inheritance cannot possibly descend, if circumstances should render the same eligible; but in this case, the trustee shall be considered as acting in two distinct characters, and shall execute the obligations of both manager and guardian, and deliver the accounts required from each distinctly.—Reg. X., 1793, sec. xxx.; Reg. LII., 1803, sec. xxxiv.

48. Both manager and guardian shall sign and seal all papers with their own names and seals, adding to the former their designation of manager or guardian. They shall on no account sign or seal the name of their ward, or of his (or her) deceased parents, but shall deliver all family seals belonging to the ward to the collector, to be deposited in the treasury of the collectorship.—Reg. X., 1793, sec. xxxi.; Reg. LII., 1803, sec. xxxv.

49. Minors, and other disqualified landholders having guardians, as described in paragraph 39, shall not be sued but under the protection and joint name of their guardians; but in cases in which a

guardian may be a party jointly with his ward in any civil suit, the securities required by the Regulations to be taken from parties in suits shall not be demanded from the guardian.—Reg. X., 1793, sec. xxxii., cl. 1; Reg. LV., 1795, sec. ii.; Reg. LII., 1803, sec. xxxvi., cl. 1; Reg. VIII., 1805, sec. xxix., cl. 7.

50. They may, however, during the term of their disqualification, sue the collectors, their guardians or managers, before the Court of Wards, for fraud, by any person willing to undertake their cause, provided he shall previously give security for the payment of all costs and damages in case of being nonsuited; in return for which, the person so suing shall receive any fine and costs that may be adjudged against the collector, guardian, or manager, in the cause undertaken by him. The Court of Wards may order the collector to inquire into and report upon any such charges against guardians or managers; but the collector is not to pass judgment, which is to be given by the Court of Wards. If the Court of Wards or the collector shall have occasion to require the attendance of any persons in the course of such inquiries, they shall make application to the judge of the proper Dewanny Adawlut to summon them to attend, and the Court of Wards and collectors are empowered to administer oaths or affirmations to such persons, if necessary, under the rules and restrictions prescribed to the Zillah and City Courts for the administration of oaths or affirmations. The Court of Wards are to transmit copies of any judgments which may be given by them, under this rule, against a collector, guardian, or manager, to the Court of Dewanny Adawlut of the zillah, and they shall be considered as judgments of the Court and be enforced accordingly. An appeal, however, shall lie from such judgments immediately to the Sudder Dewanny Adawlut, provided the petition of appeal be preferred to the Zillah Court, or to the Sudder Dewanny Adawlut, or to the Court of Wards, within three months after the date of the decision; and the Sudder Dewanny Adawlut is empowered to admit an appeal after that period, provided the petition of appeal be presented to that Court, and the appellant shall show good cause, to its satisfaction, for not having preferred the appeal within the prescribed time.—Reg. X., 1793, sec. xxxii., cl. 2; Reg. LII., 1803, sec. xxxvi., cl. 2.

51. No adoption by disqualified landholders is to be deemed valid without the previous consent of the Court of Wards, on application made to them through the collector.—Reg. X., 1793, sec. xxxiii.; Reg. LII., 1803, sec. xxxvii.

52. When the collectors report to the Board of Revenue the disqualification of any landholder, they are at the same time to state the condition of the party, the particulars of his or her estate, real and personal, as far as can be ascertained, and the person who may appear to them most eligible for manager and guardian, with the grounds of such opinion. In cases of testamentary appointments of guardians, they are also to notice the same, adding whether there be any and what objections to the confirmation of such appointments.—Reg. X., 1793, sec. xxxiv.; Reg. LII., 1803, sec. xxxviii.

53. The collectors are further to make such monthly or annual reports to the Court of Wards as may be required by them, and they, as well as managers and guardians, are to observe all instructions transmitted to them by the Court of Wards, not contrary to these or such other rules as may be hereafter enacted by the Governor-General in Council.—Reg. X., 1793, sec. xxxv.; Reg. LII., 1803, sec. xxxix.

54. If a proprietor shall have been declared disqualified and shall have been afterwards restored, or if the estate of any disqualified proprietor shall legally devolve to or come into the possession of any person not disqualified for the management of it, such proprietor, or his or her heir or successor, is declared entitled to sue the collector, the guardian (if such disqualified proprietor shall have had a guardian), or the manager, in the proper Zillah or City Court, for any acts done by them respectively whilst the estate may have been under the charge of the Court of Wards, in opposition to this or any other Regulation that may be hereafter enacted regarding disqualified proprietors and their estates, or to any order issued by the Court of Wards, or for any breach of their respective trusts. The rules regarding the suits specified in Section XXXIII., Regulation XIV., 1793 ("Realization of Revenue," paragraph 73), which the collectors are required to defend at their own risk and expense, are to be considered applicable to suits that may be instituted against collectors under this rule.—Reg. X., 1793, sec. xxxvi.; Reg. LII., 1803, sec. xl.

55. The several Courts of Wards established within the territories subject to the presidency of Fort William are hereby declared competent to farm estates falling under their jurisdiction for a term not exceeding ten years, or to adopt such other form of management, not involving an assignment of the minor's interests, for a period exceeding the above, as may in their discretion seem most expedient; any thing in the existing Regulations to the contrary notwithstanding. It is hereby further declared and provided, that all farms heretofore made by or in pursuance of orders from the Courts of Wards, whether under the special authority of the Governor-General in Council, or under the Court's own construction of its general powers, shall, to all intents and purposes, be held and considered to be legal and valid, and no exception shall be taken or allowed by any Court of Justice against such farms, on the ground of there having hitherto been no rule in any Regulation published according to the provisions of Regulation XLI., 1793, specifically authorizing the practice.—Reg. VI., 1822, sec. iii., cl. 1.

56. Farmers and others holding under the revenue authorities, in their capacity of Courts of Wards, shall be subject to the same rules and regulations as are applicable to other persons holding similar tenures and interests under collectors of the land revenue.—Reg. VI., 1822, sec. iii., cl. 2.

57. The persons of disqualified landholders shall be exempted from arrest and confinement for arrears of revenue, incurred whilst their respective estates were under the charge of managers, in conformity to the rules herein contained. The collectors are also prohibited from ordering any disqualified female proprietor of land to attend them in person, under any pretext whatever.—Reg. XIV., 1793, sec. xlviii.; Reg. LII., 1803, sec. vi.

NOTE.—Estates under the Court of Wards are exempted from sale on account of arrears of revenue, by sec. x., Act I., 1845 ("REALIZATION OF REVENUE," paragraph 11). For rules as to the recovery of rent in estates under the Court of Wards, see "REALIZATION OF RENT," paragraphs 4 to 6.

# LAND REVENUE.

## LA-KHIRAJ, MOCURRERY, AND UNASSESSED LANDS.

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# LAND REVENUE.

## LA-KHIRAJ AND MOCURRERY.

### ORIGINAL RULES FOR GRANTS NOT BADSHAHI.

*VALIDITY OF GRANTS.*

*Bengal, Behar, and Orissa.*

NOTE.—Sec. xxiv., Reg. XII., 1805, enacts, that "all the provisions contained in Reg. XIX., 1793, which are not superseded" by any of the rules specially enacted for Cuttack, and which are inserted in their respective places in the following arrangement, "are declared to be in force in the zillah of Cuttack."

1. All grants for holding land exempt from the payment of revenue, made previous to the 12th August, 1765, the date of the Company's accession to the Dewanny, by whatever authority, and whether by a writing or without a writing, shall be deemed valid, provided the grantee actually and bonâ fide obtained possession of the land so granted previous to the date above mentioned, and the land shall not have been subsequently rendered subject to the payment of revenue by the officers or the orders of Government. If it shall be proved, to the satisfaction of the Court, that the grantee did not obtain possession of the land so granted previous to the 12th August, 1765, or that he did obtain possession of it prior to that date, but that it has been since subjected to the payment of revenue by the officers or the orders of Government, the grant shall not be deemed valid.—Reg. XIX., 1793, sec. ii., cl. 1.

2. In the event, however, of a claim being preferred by any person to hold land exempt from the payment of revenue, under a grant made previous to the date of the Company's accession to the Dewanny, and of it being proved, to the satisfaction of the Court in which the suit may be instituted in the first instance, or to which it may be appealed, that the grantee held the land exempt from the payment of revenue previous to that date, but that it was subjected to the payment of revenue posterior thereto by an officer of Government, and the Court shall entertain doubts as to the competency of such officer, under the powers vested in him, to subject the lands to the payment of revenue, the Court shall suspend its judgment and report the circumstances to the Governor-General in Council, to whom a power is reserved of determining whether such officer was or was not competent to subject the land to the payment of revenue; and upon receiving the determination of the Governor-General in Council, the Court is to decide accordingly. No such claim, however, to hold exempt from the payment of revenue land that may have been subjected to the payment of revenue for the twelve years preceding the date on which the claim may be instituted, shall be heard by any Zillah or City Court, unless the claimant can show good and sufficient cause for not having preferred the claim to a competent jurisdiction within the twelve years, and proceeded in it, as required by Section XIV., Regulation III., 1793 ("CIVIL COURTS, CONSTITUTION AND JURISDICTION," paragraph 72).—Reg. XIX., 1793, sec. ii., cl. 2.

3. But no part of the two preceding paragraphs is to be construed to empower the Courts to adjudge any person, not being the original grantee, entitled to hold exempt from the payment of revenue land now subject to the payment of revenue, under a grant made previous to the Company's accession to the Dewanny, the writing for which may expressly specify it to have been given for the life of the grantee only; or supposing no such specification to have been made in the writing, or the writing not to be forthcoming, or no writing to have been executed, where the grant, from the nature and denomination of it, shall be proved to be a life tenure only according to the ancient usages of the country.—Reg. XIX., 1793, sec. ii., cl. 3.

4. Nor to entitle the heirs of any person now holding land exempt from the payment of public revenue under a grant made previous to the Dewanny, to succeed to and hold such land exempt from the payment of revenue upon the demise of the present possessor, where the writing for such grant may expressly specify it to have been given for the life of the grantee only; or supposing no such specification to have been made in the writing, or the writing not to be forthcoming, or no writing to have been executed, where, from the nature and denomination of the grant, it shall be proved to be a life tenure only, according to the ancient usages of the country. Nor to entitle the heir to any such person to hold the lands exempt from the payment of revenue after his demise, supposing the writing for the grant not to specify whether it was to be considered hereditary or otherwise; unless it shall be proved, to the satisfaction of the Court, that the grant, from the nature

and denomination of it, is hereditary according to the ancient usages of the country. But upon the demise of the present possessor of any such grant, which may be adjudged not hereditary under this rule, if it shall appear that one or more successions, in virtue of whatever right, shall have taken place before the date of the Dewanny, the lands shall not be subjected to the payment of revenue under the decree without the sanction of the Governor-General in Council, to whom a copy of the proceedings and decree of the Court is to be transmitted, and to whom is reserved a power of of declaring the lands subject to the payment of revenue or not, as may appear to him proper.—Reg. XIX., 1793, sec. ii., cl. 4.

5. The present possessors of lands now exempt from the payment of revenue, under such life grants made previous to the Dewanny and declared by the preceding paragraph not to be hereditary, are prohibited from selling, or otherwise transferring them, or mortgaging the revenue of them for a longer period than their own lives, and all such transfers and mortgages are declared illegal and void. It is to be understood, however, that if any such life grants shall have been confirmed as hereditary tenures by Government, or by the officers of Government empowered so to confirm them, they are not to be liable to the payment of revenue on the death of the present possessor, and are to be excepted from the other rules contained in this and the preceding paragraph. If doubts shall arise in any Court as to the competency of the authority of any officer of Government to confirm any such life grant as hereditary, the Court is to suspend its judgment, and report the circumstances to the Governor-General in Council, to whom a power is reserved of determining, finally, whether such officer possessed competent authority to confirm the grant as hereditary or not, and the Court, upon receiving the determination of the Governor-General in Council, is to decide accordingly.—Reg. XIX., 1793, sec. ii., cl. 5.

6. All grants for holding land exempt from the payment of revenue, which may have been made since the 12th August, 1765, and previous to the 1st December, 1790, corresponding with the 18th Aughun, 1197, Bengal era, the 10th Aughun, 1198, Fusly, the 18th Aughun, 1198, Willaity, by any other authority than that of Government, and which may not have been confirmed by Government, or by any officer empowered to confirm them, are declared invalid.—Reg. XIX., 1793, sec. iii., cl. 1.

7. If doubts shall be entertained by any Court as to the competency of the authority of any officer to confirm any such grant, the Court is to suspend its judgment, and report the circumstances of the case to the Governor-General in Council, to whom a power is reserved of determining, finally, whether the officer possessed competent authority to confirm the grant, or otherwise, and the Court, upon receiving the determination of the Governor-General in Council, shall decide accordingly.—Reg. XIX., 1793, sec. iii., cl. 2.

8. The rule contained in paragraph 6 is not to be considered to extend to authorize the subjecting to the payment of revenue land held exempt from the payment of it under grants made previous to the commencement of the Bengal year 1178, or the Fusly or Willaity year 1179 (according as the land may be situated in Bengal, Behar, or Orissa), under the signature of the chiefs of the late provincial councils and the seals of those councils, agreeably to an authority vested in them by Government for granting land to be held exempt from the payment of revenue, the annual produce of which did not exceed one hundred rupees.—Reg. XIX., 1793, sec. iii., cl. 3.

9. Nor to authorize the subjecting to the payment of revenue any land, the grants for which, whether for the life of the grantee or otherwise, were made previous to the commencement of the Bengal year 1178, or the Fusly or Willaity year 1179 (according as the land may be situated in Bengal, Behar, or Orissa), where the quantity of land granted shall not exceed ten begahs, and the produce of it is bonâ fide appropriated as an endowment on temples, or to the maintenance of Brahmins, or other religious or charitable purposes. This rule is declared to extend, also, to all grants of land whatever, not exceeding ten begahs, made previous to the Dewanny, the produce of which may be now so appropriated.—Reg. XIX., 1793, sec. iii., cl. 4.

*Benares.*

10 to 15. [Section II., Regulation XLI., 1795.] *Same as paragraphs* 1 to 5, *substituting* "1st July, 1795," *and* "the date of the cession of the provinces of Benares to the Company," *for* "12th August, 1765," *and* "the date of the Company's accession to the Dewanny."

16. All grants for holding land exempt from the payment of revenue, which may have been made since the 1st July, 1775, and previous to the beginning of the Fusly year 1196, by any other authority than that of Government, and which may not have been confirmed by Government or by any officer empowered to confirm them, are declared invalid.—Reg. XLI., 1795, sec. iii., cl. 1.

17. [Clause Second, Section III., Regulation XLI., 1795.] *Same as paragraph* 7.

18. The rule contained in paragraph 16 is not to be considered to extend to authorize the subjecting to the payment of revenue any land, the grants for which, whether for the life of the grantee or otherwise, were made previous to the 1st of July, 1775, where the quantity of land

granted shall not exceed ten begahs, and the produce of it is bonâ fide appropriated as an endowment on temples, or to the maintenance of Brahmins, or other religious or charitable purposes. This rule is declared to extend also to all grants of land whatever not exceeding ten begahs, made previous to the above date, the produce of which may be now so appropriated.—Reg. XLI., 1795, sec. iii., cl. 3.

*Ceded Provinces.*

19. All grants for holding land exempt from the payment of revenue, made previously to the 10th day of November, 1789, corresponding with the 15th day of Kautick, 1196, Fusly, or the 21st day of Suffer, 1204, Higeree, by whatever authority, and whether by a writing or without a writing, shall be deemed valid, provided that the grantee actually and bonâ fide obtained possession of the land so granted, and held it exempt from the payment of revenue previously to the date above mentioned, and that the land shall not have been subsequently rendered subject to the payment of revenue by the officers, or the orders of the Government. If it shall be proved to the satisfaction of the Court, that the grantee did not obtain possession of the land so granted, or did not hold it exempt from the payment of revenue previously to the date above specified, or that he did obtain possession of it prior to that date, but that it has been since subjected to the payment of revenue by the officers or the orders of Government, the grant shall not be deemed valid.—Reg. XXXI., 1803, sec. ii., cl. 1.

20. All grants for holding land exempt from the payment of revenue, which may have been made subsequently to the 10th day of November, 1789, and prior to the 1st day of January, 1801, by whatever authority, and which may have been confirmed or expressly admitted antecedently to the 1st day of January, 1801, by the authority of the existing Government, shall be deemed valid, provided the grantee actually and bonâ fide obtained possession of the land so granted, and held the same exempt from the payment of revenue previously to the 1st of January, 1801, and the land shall not have been afterwards rendered subject to the payment of revenue by the officers or the orders of Government. If it shall be proved to the satisfaction of the Court, that the grantee did not obtain possession of the land so granted, or did not hold it exempt from the payment of revenue previously to the 1st of January, 1801, or that he did obtain possession of it prior to that date, but that it has been since subjected to the payment of revenue by the officers or the orders of Government, the grant shall not be deemed valid.—Reg. XXXI., 1803, sec. ii., cl. 2.

21. In the event of a claim being preferred by any person to hold land exempt from the payment of revenue, under a grant made previously to the 10th day of November, 1789, or under a grant made subsequent to that date, but prior to the 1st day of January, 1801, and confirmed or admitted by the authority of the existing Government, and of its being proved to the satisfaction of the Court in which the suit may be instituted in the first instance, or to which it may be appealed, that the grantee held the land exempt from the payment of revenue previously to the date specified, but that it was afterwards subjected to the payment of revenue by an officer of Government, and the Court shall entertain doubts as to the competency of such officer, under the powers vested in him, to subject the land to the payment of revenue, the Court shall suspend its judgment, and report the circumstances to the Governor-General in Council, to whom a power is reserved of determining whether such officer was or was not competent to subject the land to the payment of revenue; and upon receiving the determination of the Governor-General in Council, the Court is to decide accordingly. In like manner, the Governor-General in Council reserves to himself the power of determining, in cases of doubt, whether any officer of the Nawaub Vizier who may have made, confirmed, or admitted, grants of land exempt from the payment of revenue, in the name or on the part of the Nawaub, was competent to exercise such authority. The Courts of Judicature will accordingly suspend their judgment in cases of the above nature, and report the circumstances for the decision of the Governor-General in Council.—Reg. XXXI., 1803, sec. ii., cl. 3.

22. But no part of the three preceding paragraphs is to be construed to empower the Courts to adjudge any person, not being the original grantee, entitled to hold land now paying revenue to Government, exempt from the payment of revenue, under any grant made previously to the 1st day of January, 1801, the writing for which may expressly specify it to have been given for the life of the grantee only; or supposing no such specification to have been made in the writing, or the writing not to be forthcoming, or no writing to have been executed where the grant, from the nature and denomination of it, shall be proved to be a life tenure only, according to the ancient usage of the country.—Reg. XXXI., 1803, sec. ii., cl. 4.

23. Nor to entitle the heirs of any person now holding land exempt from the payment of public revenue, under whatever grant, to succeed to and hold such land exempt from the payment of revenue upon the demise of the present possessor, where the writing for such grant may expressly specify it to have been given for the life of the grantee only; or supposing no such specification to have been made in the writing, or the writing not to be forthcoming, or no writing to have been executed where, from the nature and denomination of the grant, it shall be proved to be a life tenure only, according to the ancient usages of the country. Nor to entitle the heirs to any such person to hold

the lands exempt from the payment of revenue after his demise, supposing the writing for the grant not to specify whether it was to be considered hereditary or otherwise, unless it shall be proved to the satisfaction of the Court, that the grant, from the nature and denomination of it, is hereditary, according to the ancient usages of the country. But, upon the demise of the present possessor of any such grant, which may be adjudged not hereditary under this rule, if it shall appear that one or more successions, in virtue of whatever right, shall have taken place before the 1st day of January, 1801, the lands shall not be subjected to the payment of revenue under the decree, without the sanction of the Governor-General in Council, to whom a copy of the proceedings and decree of the Court is to be transmitted, and to whom is reserved a power of declaring the lands subject to the payment of revenue, or not, as may appear to him proper.—Reg. XXXI., 1803, sec. ii., cl. 5.

24. The present possessors of lands held exempt from the payment of revenue, under all life grants declared by the preceding paragraph not to be hereditary, are prohibited from selling, or otherwise transferring them, or mortgaging the revenue of them for a longer period than their own lives; and all such transfers and mortgages are declared illegal and void.—Reg. XXXI., 1803, sec. ii., cl 6.

25. Provided, however, that nothing herein contained shall authorize the subjecting to the payment of revenue any quantity of land, not exceeding ten begahs, held exempt from the payment of revenue under a grant made prior to the 1st day of January, 1801, and bonâ fide appropriated as an endowment for temples, or for other religious or charitable purposes. Moreover, if any land so held and appropriated, exceeding ten begahs, shall become liable to assessment under the rules herein contained, and the judge of the Court before which the suit for the assessment of such land may be depending, or the collector of the district, if no judicial suit respecting it be depending, shall be of opinion that the immediate assessment of such land would be productive of distress, he shall report the same, with the circumstances of the case, for the consideration of the Governor-General in Council.—Reg. XXXI., 1803, sec. ii., cl. 7.

26. The Courts of Justice shall not take cognizance of any claim to hold exempt from the payment of revenue, either under the present Regulation or under Regulation XXXVI., 1803, land which may have been subjected to the payment of revenue for the period of twelve years prior to the 10th of November, 1801; nor of any claim to hold land exempt from the payment of revenue, which may have been subjected to the payment of revenue for the twelve years preceding the date on which the claim may be instituted, unless the claimant can show good and sufficient cause for not having preferred his claim to a competent jurisdiction within that period.—Reg. XXXI., 1803, sec. ii., cl. 8.

27. All grants for holding land exempt from the payment of revenue, which may have been made since the 1st day of January, 1801, corresponding with the 19th Poose, 1207, Bengal era, the 1st Maug, 1208, Fusly, and the 19th Poose, 1208, Willaity, by any other authority than that of the British Government, and which may not have been confirmed by the Governor-General in Council, or by an officer empowered to confirm them, are declared invalid.—Reg. XXXI., 1803, sec. iii., cl. 1.

28. [Clause Second, Section III., Regulation XXXI., 1803]. *Same as paragraph* 7.

### *Conquered Provinces.*

29. Regulation XXXI., 1803, is hereby extended to the zillahs specified in Section III.; but instead of the dates stated in that Regulation, viz., the 10th November, 1789, and the 1st January, 1801, the following dates are substituted for the zillahs aforesaid, viz., the 1st January, 1792, or 22nd Poose, 1199, Fusly, in lieu of the 10th November, 1789; and the 1st January, 1803, or 23rd Poose, 1210, Fusly, in lieu of the 1st January, 1801.—Reg. VIII., 1805, sec. xxi.

### *Cuttack.*

30 to 37. [Section XVIII., Regulation XII., 1805.] *Same as paragraphs* 19 to 26, *but substituting* "the 14th day of October, 1791, corresponding with the 30th Assin, 1198, Bengal era, the 3rd Cautick, 1848, Sumbut, and the 15th Suffer, 1207, Higeree," *for* "the 10th day of November, 1789," *&c.*; "the 14th October, 1803," *for* "the 1st January, 1801;" *and* "the Rajah of Berar" *for* "the Nawaub Vizier."

38. All grants for holding land exempt from the payment of revenue, which may have been made since the 14th day of October, 1803, corresponding with the 29th Assin, 1210, Bengal era, the 14th Cautick, 1211, Fusly, the 29th Assin, 1211, Willaity, the 14th Cautick, 1860, Sumbut, and the 27th Jumadee-us-Sanee, 1218, Higeree, by any other authority than that of the British Government, and which may not have been confirmed by the Governor-General in Council, or by an officer empowered to confirm them, are declared invalid.—Reg. XII., 1805, sec. xix.

39. [Section XX., Regulation XII., 1805]. *Same as paragraph* 7.

*PROPRIETARY RIGHT IN THE LANDS.*

*Bengal, Behar, and Orissa.*

40. This Regulation, as far as regards lands alienated previous to the 1st December, 1790, respects only the question whether they are liable to the payment of revenue or otherwise. Every dispute or claim regarding the proprietary right in lands alienated previous to that date, and which, in conformity to this Regulation, may become subject to the payment of revenue, is to be considered as a matter of a private nature, to be determined by the Courts of Dewanny Adawlut, in the event of any dispute or claim arising respecting it between the grantee and the grantor, or their respective heirs or successors. The grantees, or the present possessors, until dispossessed by a decree of the Dewanny Adawlut, are to be considered as the proprietors of the lands, with the same right of property therein as is declared to be vested in proprietors of estates or dependent talooks (according as the land may exceed or be less than one hundred begahs, as specified in paragraphs 45, 46, and 70 to 72), subject to the payment of revenue, and they are to execute engagements for the revenue with which their lands may be declared chargeable, either to Government, or to the proprietor or farmer of the estate in which the lands may be situated, or to the officer of Government (according as the revenue of the estate in which the land may be situated may be payable by the proprietor or a farmer, or collected khas), under the rules for the decennial settlement. If by the decision of the Dewanny Adawlut the proprietary right in the land shall be transferred, the person succeeding thereto is, in like manner, to be responsible for the payment of the revenue assessed or chargeable thereon.—Reg. XIX., 1793, sec. iv.

41. By continuing the proprietary right in the land to the grantee or possessor, in the cases specified in the preceding paragraph, instead of dispossessing him of the land altogether, agreeably to former usage, and assessing the land in the mode prescribed in paragraphs 45 and 46, a liberal provision will be left to him. Where the grant may have been made before the Bengal year 1178, or the Fusly or Willaity year 1179, the proprietor will hold his land as an estate paying a fixed revenue of only half the amount assessed on other malguzary lands in the country; and where the grant may have been made subsequent to the above-mentioned periods, he will hold the land as subject to the payment of the same revenue as other lands assessed with revenue, under the rules for the decennial settlement, as hereafter directed.—Reg. XIX., 1793, sec. v.

*Benares.*

42. This Regulation, as far as regards lands alienated previous to the commencement of the Fusly year 1196, respects only the question whether they are liable to the payment of revenue or otherwise. Every dispute or claim regarding the proprietary right in lands alienated previous to that date, and which in conformity to these rules may become subject to the payment of revenue, is to be considered as a matter of a private nature to be determined by the Courts of Dewanny Adawlut, in the event of any dispute or claim arising respecting it between the grantee and the grantor, or their respective heirs or successors. The grantees, or the present possessors, until dispossessed by a decree of the Dewanny Adawlut, are to be considered as the proprietors of the lands, with the same right of property therein as is declared to be vested in proprietors of estates subject to the payment of revenue, and they are to execute engagements for the revenue with which their lands may be declared chargeable, either to Government, or to the proprietor or farmer of the estate in which the lands may be situated, or to the officer of Government (according as the revenue of the estate in which the land may be situated may be payable by the proprietor or a farmer, or collected khas), under the rules for the permanent settlement. If by the decision of the Dewanny Adawlut the proprietary right in the land shall be transferred, the person succeeding thereto is, in like manner, to be responsible for the payment of the revenue assessed or chargeable thereon.—Reg. XLI., 1795, sec iv.

43. By continuing the proprietary right in the land to the grantee or possessor, as specified in the preceding paragraph, instead of dispossessing him of the land altogether, agreeably to former usage, and assessing the land in the mode prescribed in paragraphs 53 and 54, a liberal provision will be left to him. Where the grant may have been made subsequent to the 1st July, 1775, and previous to the 31st August, 1781, the proprietor will hold his land as an estate paying a fixed revenue of only half the amount assessed on other malguzary lands in the country; and where the grant may have been made subsequent to the last-mentioned period, and previous to the commencement of the Fusly year 1196, he will hold the land subject to the payment of the same revenue as other lands assessed with revenue under the rules for the permanent settlement, as hereafter directed. Reg. XLI., 1795, sec. v.

*Ceded Provinces.*

44. This Regulation, as far as regards lands alienated previously to the promulgation of it, respects only the question, whether they are liable to the payment of revenue or otherwise. Every dispute or claim regarding the proprietary right in lands alienated previously to the promulgation of this Regulation, and which, in conformity thereto, may become subject to the payment of revenue, is to be considered as a matter of a private nature, to be determined by the Courts of Adawlut, in the event of any dispute or claim arising respecting it between the grantee and the grantor, or their respective heirs or successors. The grantees or their present possessors, until dispossessed by a decree of the Adawlut, are to be considered as the proprietors of the lands, with the same right of property therein as is declared to be vested in proprietors of estates subject to the payment of revenue: and they are to execute engagements for the revenue with which their lands may be declared chargeable, under the rule stated in paragraphs 61 and 62. If the proprietary right in the land shall be transferred by the decision of the Adawlut, the person succeeding thereto is, in like manner, to be responsible for the payment of the revenue assessed or chargeable thereon. —Reg. XXXI., 1803, sec. iv.

*ASSESSMENT OF RESUMED LA-KHIRAJ.*

*Bengal, Behar, and Orissa.*

45. The revenue assessable, under paragraph 50, on land not exceeding one hundred begahs of the measurement that may prevail in the pergunnah wherein it may be situated, and whether lying in one village, or two or more villages, and that may have been alienated by any one grant made previous to the 1st December, 1790, and which may be adjudged or become liable to the payment of revenue, shall belong to the person responsible for the discharge of the revenue of the estate or dependent talook in which the land may be situated, notwithstanding any thing said in Section VIII., Regulation I., 1793 ("SETTLEMENT," paragraph 8); and he shall not be liable to the payment of any additional revenue on account of the assessment which may be chargeable on such lands, during the continuance of the engagement under which he may pay the revenue of such estate or dependent talook, when the land may be so adjudged liable to the payment of revenue. If the estate or dependent talook shall be held khas, when the lands are decreed liable to the payment of revenue, the amount is to be collected by, and paid to whomsoever the rents and revenue of the estate or talook may be payable, until a settlement shall be concluded for the revenue of it, either with the proprietor or a farmer. The land which may be so adjudged subject to the payment of the revenue is to be considered as a dependent talook.—Reg. XIX., 1793, sec. vi.

46. The revenue assessable, under paragraphs 47, 48, and 49, on land exceeding one hundred begahs of the measurement that may prevail in the pergunnah wherein it may be situated, and whether lying in one village, or two or more villages, and alienated by any one grant made previous to the 1st December, 1790, and which may be adjudged or become liable to the payment of revenue, is declared to belong to Government. The lands specified in this paragraph which may be adjudged liable to the payment of revenue are to be considered as independent talooks.—Reg. XIX., 1793, sec. vii.

47. The amount of the revenue payable from the lands specified in the preceding paragraph is to be adjusted according to the following rules.—Reg. XIX., 1793, sec. viii., cl. 1.

48. If the grant shall have been made previous to the Bengal year 1178, or the Fusly or Willaity year 1179 (according as the lands may be situated in Bengal, Behar, or Orissa), the revenue to be paid to Government shall be equal to one-half of the annual produce of the land, calculating according to the rates at which other lands in the pergunnah of a similar description may be assessed. If any part of the land shall be uncultivated, the proprietor is to be required to bring it into cultivation, and to pay such russud or progressive increase, to be regulated with a reference to the reduced rate of the assessment on the cultivated land, as the Board of Revenue, with the sanction of the Governor-General in Council may deem reasonable. The produce of the land shall be ascertained by a survey and measurement, one-half of the expense attending which is to be defrayed by the proprietor, in the event of his agreeing to the jumma required of him, and the other moiety by Government; or by such other mode of investigation as the collector, with the sanction of the Board of Revenue, may judge advisable. If the proprietor shall refuse to agree to the assessment, the lands are to be let in farm or held khas, under the rules prescribed in Regulation VIII., 1793 ("SETTLEMENT"). If the proprietor shall agree to pay the revenue that may be required of him, the amount shall not be liable to any variation in future, but he, and his heirs and successors, shall hold the lands at such fixed revenue for ever.—Reg. XIX., 1793, sec. viii., cl. 2.

49. If the grant shall have been made subsequent to the Bengal year 1178, or the Fusly or Willaity year 1179 (according as the lands may be situated in Bengal, Behar, or Orissa), the revenue or jumma to be paid to Government from the land shall be assessed agreeably to the rules prescribed in Regulation VIII., 1793 ("SETTLEMENT"), for forming the settlement of estates paying revenue to Government, and the produce shall be ascertained, and the expense of the investigation defrayed, in the manner specified with regard to the lands in the preceding paragraph. If the proprietor shall refuse to agree to the assessment, the lands are to be let in farm or held khas, under the rules for the decennial settlement. If the proprietor shall agree to pay the revenue that may be required of him, the amount shall not be liable to any variation in future, but he, and his heirs and successors, shall hold the land at such fixed revenue for ever.—Reg. XIX., 1793, sec. viii., cl. 3.

50. The rules in the preceding paragraph are to be held applicable to the lands specified in paragraph 45, with this difference, that the proprietor, farmer, dependent talookdar, or officer of Government to whom the revenue may be payable, shall ascertain the produce of the land without subjecting the grantee to any expense, and submit the accounts of it to the collector, who shall fix the revenue to be paid from the lands in perpetuity, reporting the amount for the confirmation of the Board of Revenue, who are empowered, in cases in which it shall appear to them proper, to increase or reduce the amount. If the proprietor shall agree to pay the revenue required of him, he, and his heirs and successors, shall hold the lands as a dependent talook, subject to the payment of such fixed revenue for ever.—Reg. XIX., 1793, sec. ix.

51. All grants for holding land exempt from the payment of revenue, whether exceeding or under one hundred begahs, that have been made since the 1st December, 1790, or that may be hereafter made by any other authority than that of the Governor-General in Council, are declared null and void, and no length of possession shall be hereafter considered to give validity to any such grant, either with regard to the property in the soil or the rents of it. And every person who now possesses, or may succeed to the proprietary right in any estate or dependent talook, or who now holds or may hereafter hold any estate or dependent talook in farm of Government, or of the proprietor, or any other person, and every officer of Government appointed to make the collections from any estate or talook held khas, is authorized and required to collect the rents from such lands at the rates of the pergunnah, and to dispossess the grantee of the proprietary right in the land, and to re-annex it to the estate or talook in which it may be situated, without making previous application to a Court of Judicature, or sending previous or subsequent notice of the dispossession or annexation to any officer of Government; nor shall any such proprietor, farmer, or dependent talookdar, be liable to an increase of assessment on account of such grants which he may resume and annul during the term of the engagements that he may be under for the payment of the revenue of such estate or talook when the grant may be so resumed and annulled. The managers of the estates of disqualified proprietors, and of joint undivided estates, are authorized and required to exercise, on behalf of the proprietors, the powers vested in proprietors by this paragraph.—Reg. XIX., 1793, sec. x.

52. Proprietors or farmers of land, or dependent talookdars, who may deem themselves entitled to the revenue of any land of the description of that specified in paragraph 45, situated in their respective estates, farms, or talooks, are to institute a suit for the recovery of it in the Court of Dewanny Adawlut. Any proprietor or farmer of land, or dependent talookdar, or other person, subjecting such lands to the payment of revenue, without having previously obtained a judicial decree for that purpose, shall be liable to be sued for damages by the parties injured. Where estates or dependent talooks may be held khas, the right of suing for the recovery of the revenue from the lands specified in paragraph 45, is to be considered as vested in the party to whom the collections from the estate or talook may be payable. If the estate or talook be held khas by Government, the tehseeldar or other officer is to sue for the revenue chargeable on such lands in the room of the proprietor, but under the directions of the collector.—Reg. XIX., 1793, sec. xi.

*Benares.*

53. The revenue assessable under paragraph 58 on land not exceeding fifty begahs of the measurement that may prevail in the pergunnah wherein it may be situated, and whether lying in one village, or two or more villages, and that may have been alienated by any one grant made previous to the Fusly year 1196, and which may be adjudged or become liable to the payment of revenue, shall belong to the person or persons responsible for the discharge of the revenue of the estate or putteedary in which the land may be situated, notwithstanding anything said in Section V., Regulation XXVII., 1795 ("SETTLEMENT," paragraph 143), and he shall not be liable to the payment of any additional revenue on account of the assessment which may be chargeable on such lands during the continuance of the engagements under which he may pay the revenue of such estate or putteedary, when the land may be so adjudged liable to the payment of revenue. If the estate or putteedary shall be held amauny or khas when the lands are declared liable to the payment of revenue, the amount is to be collected by and paid to whomsoever the rents and revenue of the estate or talook may be payable,

until a settlement shall be concluded for the revenue of it, either with the proprietor or a farmer.—Reg. XLI., 1795, sec. vi.

54. The revenue assessable under the three following paragraphs, on land exceeding fifty begahs of the measurement that may prevail in the pergunnah wherein it may be situated, and whether lying in one village, or two or more villages, and alienated by any one grant made previous to the Fusly year 1196, and which may be adjudged or become liable to the payment of revenue, is declared to belong to Government, but is to be paid through the proprietor of the estate from which the alienation was originally made, under Clause Third, Section XIV., Regulation II., 1795 ("SETTLEMENT," paragraph 125).—Reg. XLI., 1795, sec. vii.

55. [Clause First, Section VIII., Regulation XLI., 1795.] *Same as paragraph* 47.

56. If the grant shall have been made previous to the 31st August, 1781, the revenue to be paid to Government [*&c., as in paragraph* 48, *substituting* "amauny" *for* "khas," *and omitting the words* "under the rules prescribed in Regulation VIII., 1793].—Reg. XLI., 1795, sec. viii., cl. 2.

57. If the grant shall have been made subsequent to the 31st August, 1781, the revenue or jumma to be paid to Government from the land shall be assessed agreeably to the rules prescribed in Regulation V., 1795, for forming the settlement [*&c., as in paragraph* 49, *inserting the words* "amauny or" *before* "khas," *and the words* "and quartennial" *after* "decennial"].—Reg. XLI., 1795, sec. viii., cl. 3.

58. The rules in the preceding paragraphs are to be held applicable to the lands specified in paragraph 53, with this difference, that the proprietor, farmer, putteedar, or officer of Government [*&c., as in paragraph* 50, *substituting* "puttee" *for* "talook"].—Reg. XLI., 1795, sec. ix.

59. All grants for holding land exempt from the payment of revenue, whether exceeding or under fifty begahs, that have been made since the beginning of the Fusly year 1196 [*&c., as in paragraph* 51, *omitting the words* "or dependent talook," *and* "of joint undivided estates," *and substituting* "putteedar" *for* "dependent talookdar"].—Reg. XLI., 1795, sec. x.

60. [Section XI., Regulation XLI., 1795 ] *Same as paragraph* 52, *substituting* "putteedar" *for* "dependent talookdar."

*Ceded Provinces.*

61. The revenue assessable on all lands which shall be adjudged or become liable to the payment of revenue under the present Regulation, is declared to belong to Government.—Reg. XXXI., 1803, sec. v., cl. 1.

62. The revenue payable to Government shall be regulated by the rules prescribed by Regulation XXVII., 1803 ("SETTLEMENT"), for concluding the settlement of lands paying revenue to Government; and by any subsequent rules which may be prescribed relative to the assessment of lands subject to the payment of revenue to Government. If the proprietor shall not agree to the assessment so fixed, a report of his objections, and of the circumstances of the case, shall be made by the collector of the district, through the Board of Revenue, for the information of the Governor-General in Council, who will determine on the amount of the assessment; and if the proprietor shall refuse to engage for the same, the lands shall be let in farm, or held khas, under the rules contained in the existing Regulations.—Reg. XXXI., 1803, sec. v., cl. 2.

63. All grants for holding land exempt from the payment of revenue that may be made after the promulgation of this Regulation, by any other authority than that of the Governor-General in Council, are declared null and void [*&c., as in paragraph* 51].—Reg. XXXI., 1803, sec. vi.

*Cuttack.*

64, 65. [Clauses First and Second, Section XXII., Regulation XII., 1805.] *Same as paragraphs* 61 *and* 62, *substituting* "this Regulation" *for* "Regulation XXVII., 1803."

*SUITS AGAINST GOVERNMENT.*

*General Rules.*

66. The collectors of the revenue are to defend all suits that may be instituted against Government, by any individual claiming a right to hold lands exempt from the payment of public revenue, and such suits are to be defended by the vakeel of Government under the instructions of the collector; and in the event of Government being cast, either wholly or in part, or if the collector shall be dissatisfied with the decree in any respect, all the rules contained in Section XXX., Regulation XIV., 1793, Section XXXVI., Regulation VI., 1795; Section XXXIII., Regulation XXVII., 1803 ("REALIZATION OF REVENUE"), and the other sections in those Regulations respecting decisions given against a collector in any City or Zillah Court, in suits instituted against

him by any proprietor or farmer of land, for sums of money demanded or actually received by him as arrears of revenue, are to be held applicable to such decree; with this difference, that the suit, from the commencement of it, is to be defended at the expense of Government, and in the event of the Board of Revenue not deeming it proper to order an appeal against the decision of the Zillah Court to be preferred to the Sudder Dewanny Adawlut, they are to report their reasons for not preferring the appeal to the Governor-General in Council, who will direct the cause to be appealed, or not, in either case, as may appear to him proper.—Reg. XIX., 1793, sec. xv.; Reg. XLI., 1795, sec. xv.; Reg. XXXI., 1803, sec. x.

67. If it shall appear to any Court of Judicature during the course of a trial, that a grant for land to be held exempt from the payment of revenue, dated prior to the 1st December, 1790, has been forged, or that the name of the original grantee has been erased and any other name substituted, or that any name not in the original grant has been inserted, or that the denomination of the tenure in the original grant has been erased or altered, or that the date of the grant has been changed, or that the grant has been antedated, the grant shall be adjudged null and void, as far as regards the exemption of the land from the payment of revenue, and the land shall be subjected to the payment of revenue accordingly.—Reg. XIX., 1793, sec. xvii.; Reg. XLI., 1795, sec. xvii.; Reg. XXXI., 1803, sec. xii. (NOTE.—*The Benares rule substitutes the date* "beginning of 1196, Fusly;" *the rule for the Ceded Provinces omits the date entirely.*)

68. Any person by whom any of the frauds specified in the preceding paragraph may appear to have been committed, or who may have been concerned therein, shall, provided the Court is of opinion that there are sufficient grounds for a criminal prosecution, be committed or held to bail (according to the circumstances of the case), to take his trial before the Sessions Court.—Reg. XIX., 1793, sec. xviii.; Reg. XLI., 1795, sec. xviii.; Reg. XXXI., 1803, sec. xiii.

### *Grants Transferable.*

69. Grants of land which, from the terms of the grant or the nature of the tenure, are hereditary, and are declared valid by these rules, or which have been or may be confirmed by the British Government, or any of its officers possessing competent authority to confirm them, are declared transferable by gift, sale, or otherwise; and all persons succeeding to such grants by whatever mode, are required to register their names in the office of the collector within six months after they may succeed to the grant. But all such purchases are to be considered as made at the risk of the purchaser; and in the event of the grant not proving to be hereditary, or not to have been made or confirmed by the British Government, or its officers possessing competent authority, the transfer is not to preclude the land from being subjected to the payment of revenue under these rules.—Reg. XIX., 1793, sec. xx.; Reg. XLI., 1795, sec. xx.; Reg. XXXI., 1803, sec. xv.

## REGISTRY.

### *General Rules.*

70. When land of the description specified in paragraph 46 shall be finally adjudged liable to the payment of revenue, the name of the pergunnah (or other local division where there may be no pergunnah), sircar, and soubah, in which the land may be situated, with the exact number of villages or other subdivisions comprised therein, as particularized in the pergunnah register directed to be kept by Regulations VIII., 1800, and XLII., 1803 ("REGISTRY OF ESTATES"), the amount of the public revenue payable therefrom, the name or names of the proprietor or proprietors, and a copy of the decree, are to be entered in the register of intermediate resumptions directed to be kept by paragraph 86; and opposite to such entry the collector is to insert, in red ink, the number of the page in the periodical register, directed to be kept by paragraph 73, in which the lands may stand recorded: and in the periodical register he is to specify, in red ink, the number of the page in the register of intermediate resumptions in which the decree adjudging the land subject to the payment of revenue, and the other entries above specified, may be inserted. These entries in the register of intermediate resumptions are likewise to be inserted in the register of intermediate mutations in landed property, paying revenue to Government ("REGISTRY OF ESTATES," paragraphs 25, 26), in order that the land may be recorded in its proper place as an estate paying revenue to Government, in the next quinquennial register which may be formed. The collector is to insert, in red ink, opposite to the entries relating to such lands in the periodical register and the register of intermediate resumptions, the number of the page in the register of intermediate mutations in which the above required entries may be made; and he is also to specify, in red ink, opposite to such entries in the register of intermediate mutations, the number of the page in the periodical register and the register of intermediate resumptions in which the entries respecting the lands may be

inserted.—Reg. XIX., 1793, sec. xxi., cl. 1; Reg. XLI., 1795, sec. xxi., cl. 1; Reg. VIII. 1800, secs. xi., xii.; Reg. XXXI., 1803, sec. xvi., cl. 1.

71. When land of the description specified in paragraph 45 shall be finally adjudged liable to the payment of revenue, the name of the pergunnah or other local division in which it may be situated, the name or names of the proprietor or proprietors, the amount of the jumma, and a copy of the decree, are to be entered in the register of intermediate resumptions; and opposite to such entry the collector is to insert, in red ink, the number of the page in the periodical register in which the lands may stand recorded; and in the periodical register he is to insert, in red ink, the number of the page in the register of intermediate resumptions, in which the decree adjudging the land subject to the payment of revenue, and the other entries above specified, may be inserted. The lands mentioned in this and the preceding paragraph not being liable to the payment of revenue to Government, no entry respecting them is to be made in the register of intermediate mutations, or the quinquennial register of malguzary estates.—Reg. XIX., 1793, sec. xxi., cl. 2; Reg. XLI., 1795, sec. xxi., cl. 2; Reg. VIII., 1800, secs. xi., xii.

72. When land now subject to the payment of revenue shall be finally adjudged to be exempted from the payment of revenue, the name of the pergunnah (or other local division where there may be no pergunnah), sircar, and soubah, in which the land granted may be situated, with the exact number of villages, or other subdivisions, comprised therein, as particularized in the pergunnah register, the name or names of the proprietor or proprietors, the amount of the jumma, and a copy of the decree, are to be entered in the register of intermediate mutations, and the collector is to insert, in red ink, opposite to such entry, the number of the page in the last-formed quinquennial register, in which such village or villages, or the village or villages in which the lands may be situated may be recorded, that the lands included in the grant may be omitted in the quinquennial register which may be next formed, and also the number of the page in the register of intermediate resumptions in which such entries are also to be recorded, that they may be inserted in their proper place in the periodical register of land held exempt from the payment of revenue; and the collector shall insert, in red ink, opposite to such entries, the number of the page in the register of intermediate mutations from which they may have been taken. The rules in this paragraph are to be observed, likewise, in case the Governor-General in Council should deem it proper, from particular circumstances, to renew any former grants, the land included in which may be now subject to the payment of revenue.—Reg. XIX., 1793, sec. xxi., cl. 3; Reg. XLI., 1795, sec. xxi., cl. 3; Reg. VIII., 1800, secs. xi., xii.; Reg. XXXI., 1803, sec. xvi., cl. 2.

73. That Government and its officers may, at all future periods, have in their possession a complete register of the lands throughout the provinces held exempt from the payment of revenue, under grants of the nature of those herein described, and with a view to prevent any such grants being made in future, a register of all lands held exempt from the payment of revenue under grants made previously to the dates specified in paragraphs 77, 78, 79, or since exempted from the payment of revenue by the authority of Government, shall be formed every five years in each zillah. The register is to specify the denomination of each grant, whether bermooter, bishunpereet, kishnarpun, or other tenure; the names of the grantor, the original grantee, and the person in possession, and if the person in possession be not the original grantee, his relationship to him if any relationship exists, and in virtue of what right he succeeded to the grant; the date of the grant; the name of the pergunnah (or other local division where there may be no pergunnah), sircar, and soubah, in which the land granted may be situated, with the exact number of villages or other subdivisions comprised therein, as particularized in the pergunnah register. The collectors are enjoined to take the utmost care that the names of the pergunnahs (or other local divisions where there may be no pergunnahs), as well as the number of villages or other subdivisions stated to be in each, are exactly conformable to the pergunnah register; and are to furnish their native officers appointed to prepare the counterpart registers with particular instructions for this purpose. The register shall be denominated the "periodical register of lands held exempt from the payment of revenue under grants not being badshahee or royal grants."—Reg. XIX., 1793, sec. xxii.; Reg. XLI., 1795, sec. xxii.; Reg. VIII., 1800, sec. xi.; Reg. XXXI., 1803, sec. xvii.

74. Upon the receipt of this Regulation, the Board of Revenue are to prepare a form for the periodical register, and transmit a copy of it for the guidance of the collectors, who are strictly enjoined to adhere to it.—Reg. XIX., 1793, sec. xxiii.; Reg. XLI., 1795, sec. xxiii.; Reg. XXXI., 1803, sec. xviii.

75. All persons actually holding lands exempt from the payment of public revenue, whether exceeding or under one hundred begahs, in virtue of grants made previous to the dates specified in paragraphs 77, 78, 79, and whether made or confirmed by the Government of the country for the time being, or any other authority, shall be allowed one year from the date of the publication prescribed in the following paragraph, to register the required particulars respecting their grants in the office of the collector of the revenue of the zillah in which the lands may be situated.—Reg. XIX., 1793, sec. xxiv.; Reg. XLI., 1795, sec. xxiv.; Reg. XXXI., 1803, sec. xix.

*Bengal, Behar, and Orissa.*

76. To prevent any pleas being hereafter urged of ignorance of the rule contained in the preceding paragraph, the collector of each zillah, upon the receipt of this Regulation, is to cause the following publication, which shall be written in the Bengal and Persian languages in Bengal and Orissa, and in the Persian language, and the Hindostanee language and Nageree character, in Behar, and attested with their official seals and signatures, to be fixed up in the principal cutcherry of every proprietor and farmer of land in the zillah paying revenue immediately to Government; and of every native collector in lands held khas by Government; and where the estate of any proprietor with whom a settlement may have been concluded, or the farm of any farmer, or lands held khas, shall consist of two or more whole pergunnahs, or portions of pergunnahs, he shall cause the publication to be fixed up in the principal cutcherry in each pergunnah, or portion of a pergunnah, comprised in such estate, farm, or khas lands, and take a receipt, specifying the date on which the publication may be fixed up, from such proprietor, farmer, or native officer, who shall respectively be held responsible for the paper remaining so affixed for one year from the date of it.

"In conformity to Regulation XIX., 1793, every person being actually in possession of bermooter, bishunpereet, or other land, now exempt from the payment of revenue, in the estate of ———, or the farm of ———, or the khas lands under the charge of ———, whether exceeding or under one hundred begahs of the measurement of the pergunnah in which the land may be situated, and whether comprising or lying in one village, or two or more villages, and which may be held in virtue of any grant made previous to the 1st December, 1790, corresponding with the 18th Aughun, 1197, Bengal era; the 10th Aughun, 1198, Fusly; the 18th Aughun, 1198, Willaity; and whether made or confirmed by the Government of the country for the time being, or its officers, or any other authority, are required to register the following particulars respecting such lands in the office of the collector of the zillah, before the expiration of one year from the date of this publication. If any holders of such grants, who shall not so register their grants, either in person or by vakeel, with a vakalutnamah attested by two credible witnesses, and given for the express purpose of registering the grant, the lands will be considered liable to the payment of revenue, in the same manner as if they had been adjudged to be so by a final decree of a Court of Judicature. Persons having claims only to hold land exempt from the payment of revenue, but who do not now hold the lands exempt from the payment of revenue, are not to register the land so claimed by them.

"Denomination of the grant, whether bishunpereet, bermooter, or other tenure.

"Name of the grantor.

"Name of the original grantee.

"Name of the present possessor, and if he be not the original grantee, his relationship to him, and whether he succeeded to the land hereditarily, or by purchase, or what other mode.

"Date of the deed, if the grant be in writing, and if not, the date on which the grant was made.

"The name or names of the village or villages comprised in the grant, or in which the land may be situated.

"The measurement of each village, or the villages, or the land included in the grant.

"The pergunnah or pergunnahs in which the lands may be situated.

"A copy of the original grant, or other writings, under which the land may be held."—Reg. XIX., 1793, sec. xxv.

*Benares.*

77. To prevent any pleas being hereafter urged of ignorance of the rule contained in paragraph 75, the collector, upon the receipt of this Regulation, is to cause the following publication, which shall be written in the Persian language, and the Hindostanee language and Nageree character, and attested with his official seal and signature, to be fixed up in the principal cutcherry of every proprietor and farmer of land paying revenue immediately to Government, and of every native collector in lands held amauny or khas by Government, and take a receipt, specifying the date on which the publication may be fixed up, from such proprietor, farmer, or native officer, who shall respectively be held responsible for the paper remaining so affixed for one year from the date of it.

"In conformity to Regulation XLI., 1795, every person being actually in possession of maafy mujray, or kishnarpun, baghaut, or other land now exempt from the payment of revenue, in the estate of ———, or the farm of ———, or the amauny or khas lands under the charge of ———, whether exceeding or under fifty begahs of the measurement of the pergunnah in which the land may be situated, and whether comprising or lying in one village, or two or more villages, and which may be held in virtue of any grant made previous to the Fusly year,

1196, and whether made or confirmed by the Government of the country," *&c., as in the preceding paragraph.*—Reg. XLI., 1795, sec. xxv.

*Bengal, Behar, Benares, and Orissa.*

78. It appearing that the publications directed in the two preceding paragraphs have not, in every instance, been made as therein directed, the collectors are hereby further directed, immediately on the receipt of this Regulation, to ascertain whether the publications above specified have been duly made as prescribed throughout their respective collectorships; and if not, they are to cause the same to be made without delay, in the manner prescribed, as well as in their own cutcherries, and in the cutcherries of the Dewanny Courts situated within their respective zillahs; allowing the further period of one year from the date of such publications for the registry of the lands therein specified. After the expiration of such period, any unregistered land found to be held exempt from the payment of revenue is to be assessed, under the provisions of paragraph 83, whenever the same may be discovered; and the collectors are to enter lands so assessed (together with all other la-khiraj lands which may be brought upon the public assessment) in their succeeding quinquennial register of estates paying revenue, as well as in their register of intermediate mutations.—Reg. VIII., 1800, sec. xix.

*Ceded and Conquered Provinces.*

79. To prevent any pleas being hereafter urged of ignorance of the rule contained in paragraph 75, the collector of each zillah, upon the receipt of this Regulation, is to cause the following publication, which shall be written in the Persian language and the Hindoostanee language and Nageree character, and attested with their official seals and signatures, to be fixed up in the principal cutcherry of every tehseeldar, and of every proprietor and farmer of land in the zillah paying revenue immediately to Government, and of every native collector in lands held khas by Government; and where the estate of any proprietor with whom a settlement shall have been concluded, or the farm of any farmer, or lands held khas, shall consist of two or more whole pergunnahs or portions of pergunnahs, he shall cause the publication to be fixed up in the principal cutcherry in each pergunnah or portion of a pergunnah comprised in such estate, farm, or khas lands, and take a receipt, specifying the date on which the publication may be fixed up, from such proprietor, farmer, or native officer, who shall respectively be held responsible for the paper remaining so affixed for one year from the date of it. The collectors are further required to cause the prescribed publication to be fixed up in their own cutcherries, and in the cutcherries of the Courts of Judicature within their respective zillahs, for general information.

"In conformity to Regulation XXXI., 1803, every person being actually in possession of bermooter, bishunpereet, kishnarpun, or other land now exempt from the payment of revenue, in the estate of ———, or the farm of ———, or the khas lands under the charge of ———, and which may be held in virtue of any grant made previously to the 1st day of January, 1801, corresponding with the 1st Maug, 1208, Fusly, the 19th Poose, 1208, Willaity, and whether made or confirmed by the Government of the country for the time being or its officers, or any other authority," *&c., as in paragraph* 76.—Reg. XXXI., 1803, sec. xx.

80. On receipt of this Regulation, the collectors are required to issue the publications directed in the preceding paragraph, in the form therein prescribed, requiring all persons holding lands exempt from the payment of revenue to Government, to register such lands within the period of one year from the date of the publications.—Reg. VII., 1808, sec. ii.

81. After the term of one year from the date of the publications directed to be issued in the preceding paragraph, any lands held free of assessment which may have been omitted to be registered are hereby declared liable to the payment of revenue to Government.—Reg. VII., 1808, sec. iii.

*Cuttack.*

82. The period of one year, reckoning from the expiration of the current Willaity year 1212, shall be allowed to the proprietors to register their grants. On the expiration of that period of time, the collectors shall prepare the first periodical register of lands held exempt from the payment of revenue; and the second, third, and each successive register, at the expiration of every five years.—Reg. XII., 1805, sec. xxiii.

*General Rule.*

83. If any person in possession of any such grant of land now held exempt from the payment revenue shall omit to register it by the time prescribed in the publication, together with as accurate a detail of the particulars thereby required as he may be able to furnish, the land included in the

grant shall, by such omission, become subject to the payment of revenue, in the same manner as if it had been adjudged liable to the payment of revenue by a final decree of a Court of Judicature, and the collector, if the land shall exceed one hundred begahs, shall proceed to assess the lands accordingly; and if it shall be under one hundred begahs, the party to whom the revenue of the land may be payable under paragraph 45 is empowered to assess the lands as therein directed. The Governor-General in Council, however, reserves to himself the power of admitting any grant upon the register after the expiration of the prescribed time, in the event of the possessor of the land showing good and sufficient cause, to his satisfaction, for not having registered it within the limited period; and the Board of Revenue are to report to the Governor-General in Council every case in which persons who may have omitted to register their grants as required may appear to them entitled to have their grants admitted upon the register.—Reg. XIX., 1793, sec. xxvi.; Reg. XLI., 1795, sec. xxvi.; Reg. XXXI., 1803, sec. xxi. (NOTE.—*The Benares rule substitutes* "fifty" *for* "one hundred begahs," *and the Ceded Provinces rule omits the parts underlined.*)

*Bengal, Behar, Orissa, and Benares.*

84. The collectors shall receive a commission of twenty-five per cent. on the amount of the annual jumma which may be assessed in perpetuity on lands finally resumed and declared liable to be assessed with public revenue, under the preceding paragraph. The commission shall be paid to the collector who shall discover and report to the Board of Revenue the omission of the registry of the lands, unless the Governor-General in Council should deem it equitable, in any particular case, to give the whole or a part of the commission to any other collector.—Reg. LVIII., 1795, sec. ii.

*General Rules.*

85. After the expiration of the period limited for registering grants, all grants not registered within the prescribed time, and which may not be subsequently admitted on the register by the Governor-General in Council, are declared invalid as far as regards the exemption from the payment of revenue, and the land shall be assessed with revenue, as directed in paragraph 83.—Reg. XIX., 1793, sec. xxvii.; Reg. XLI., 1795, sec. xxvii.; Reg. XXXI., 1803, sec. xxii.

86. It is expressly declared, however, that the registry of grants under these rules is not to be considered as an admission of the right of the person in whose name they may be registered to the property in the soil, or of his title to hold the lands exempt from the payment of revenue. Any person will be at liberty to sue him in the Dewanny Adawlut for the former, and he will be liable to be sued for the recovery of the latter by the collector, with the sanction of the Board of Revenue, in the event of it appearing to that Board that the lands are liable to the payment of revenue.—Reg. XIX., 1793, sec. xxviii.; Reg. XLI., 1795, sec. xxviii.; Reg. XXXI., 1803, sec. xxiii.

87. Upon the expiration of the period for registering the grants in each zillah, the collector is to prepare a draft of the register, in the form which may be prescribed by the Board of Revenue, and to cause it to be transcribed into a book of such dimensions as they may direct. The book shall have the following inscription on the back of it:—"Periodical register, formed under Regulation XIX., 1793 [XLI., 1795, or XXXI., 1803], of lands held exempt from the payment of revenue, under grants not badshahi, or royal, made previous to the 1st December, 1790, in the zillah of ———, at the commencement of the year ———, Bengal (Fusly, or Willaity) era, corresponding with the year of our Lord ———, Number ———." Each leaf of the book shall be paged, and be signed by the judge of the Dewanny Adawlut of the zillah [judge of the city in Benares]; and on the last leaf of the book he is to note, in his own handwriting, the number of pages in the book, and subscribe the note with his signature; and no register is to be deemed authentic but such as may be entered in a book so paged and attested. The first periodical register is to be numbered one.—Reg. XIX., 1793, sec. xxix.; Reg. XLI., 1795, sec. xxix.; Reg. XXXI., 1803, sec. xxiv. (NOTE.—*The Benares rule substitutes the date* "Fusly year 1196," *and the Ceded Provinces rule omits the words underlined.*)

88. The second periodical register is to commence with the year 1207 of the era current in each province. This register is to be numbered two, and the periodical registers to be prepared at the commencement of every subsequent five years, in the order in which they may be formed.—Reg. XIX., 1793, sec. xxx.; Reg. XLI., 1795, sec. xxx.; Reg. XXXI., 1803, sec. xxv. (NOTE. —*The latter rule substitutes* "Fusly, 1219," *for the words underlined.*)

89. The keepers of the native records are to keep an exact counterpart of the English periodical register, in a volume of such dimensions as the Board of Revenue may prescribe, and which shall be paged, and be attested by the judge of the Dewanny Adawlut of the zillah [judge of the city in Benares], in the same manner as the books containing the English registers; and no other counterparts of the registers of estates shall be considered as authentic, but such as may be entered in a book

so paged and attested.—Reg. XIX., 1793, sec. xxxi.; Reg. XLI., 1795, sec. xxxi.; Reg. XXXI., 1803, sec. xxvi.

90. The counterpart registers are to be kept in the Persian language.—Reg. XIX., 1793, sec. xxxii.; Reg. XLI., 1795, sec. xxxii.; Reg. VIII., 1800, sec. xv.; Reg. XXXI., 1803, sec. xxvii.

91. For the purpose of recording all resumptions, or other occurrences respecting the lands which form the subject of these rules, that may take place during the interval of the five years between the forming of each periodical register, and the particulars of which will be necessary for forming the second, and all future periodical registers, the collectors are to prepare a book of such dimensions as the Board of Revenue may prescribe, and which shall be denominated "the register of intermediate resumptions, or other occurrences respecting grants of exempted land not badshahi;" and shall have the following inscription on the back, "Register formed under Regulation XIX., 1793 [XLI., 1795, XXXI., 1803], of intermediate resumptions, or other occurrences respecting lands held exempt from the payment of revenue, under grants not badshahi or royal, made previous to the 1st December, 1790, in the zillah of ———, between the commencement of the year ———, and the end of the year ———, Bengal (Fusly or Willaity) era." Previous to any entries being made in this register, it is to be paged, and the judge of the Dewanny Adawlut of the zillah [judge of the city in Benares] is to sign each leaf of it, and on the last leaf note, in his own handwriting, the number of pages contained in the book, and attest the note with his signature. The collector is to cause to be entered in this register, all grants not registered within the time prescribed in the publication in paragraphs 76, 77, and 79, which the Governor-General in Council may order to be admitted upon the register under paragraph 82: all grants of exempted land that may be adjudged or become liable to the payment of revenue; all lands now paying revenue which may be adjudged not subject to the payment of revenue; all old grants of land now subject to the payment of revenue, which the Governor-General in Council may judge it proper, from particular circumstances, to renew; and all exempted lands which may be separated from or annexed to the jurisdiction of the zillah, with the authority for these several occurrences, and also the particulars for completing the requisite entries in the register of intermediate mutations in landed property paying revenue to Government, in the cases specified in paragraphs 70, 71, and 72, in which entries are directed to be made in that register.—Reg. XIX., 1793, sec. xxxiii.; Reg. XLI., 1795, sec. xxxiii.; Reg. XXXI., 1803, sec. xxviii. (NOTE.—*The Benares rule substitutes* "Fusly year 1196" *for the date, and the Ceded Provinces rule omits the words underlined.*)

92. When mohauls are ordered to be separated from one zillah and annexed to another, the collector of the zillah from which the separation is to take place is to transmit to the collector of the zillah to which the annexation is to be made, a copy of the entries in the preceding periodical register, as far as they may regard the lands held exempt from the payment of revenue in such mohauls, and also of any entries respecting them in the register of intermediate resumptions, which may have taken place subsequent to the forming of the last periodical register.—Reg. XIX., 1793, sec. xxxiv.; Reg. XLI., 1795, sec. xxxiv.; Reg. XXXI., 1803, sec. xxix.

93. Upon the arrival of the period when the separation is to be carried into effect, the collector of the zillah from which the separation may be directed to be made is to transmit to the judge of the Dewanny Adawlut of his zillah, copies of the entries in the last periodical register and register of intermediate resumptions which may relate to the grants to be separated from his zillah; and the collector to whose zillah the annexation may be made is to transmit copies of the above-mentioned entries (with which he is directed to be furnished in the preceding paragraph) to the judge of the jurisdiction to which the lands may be annexed. Immediately upon the receipt of these papers, the Courts, from the jurisdiction of which the separations may be made, are to transmit the papers in the causes depending before them, which, in consequence of the separation, may become cognizable in any other Court, to such Court, and to cause notification thereof to be communicated to the parties in writing.—Reg. XIX., 1793, sec. xxxv.; Reg. XLI., 1795, sec. xxxv.; Reg. XXXI., 1803, sec. xxx.

94. The collectors are to attest all entries in the register of intermediate resumptions with their official signatures; and they are strictly enjoined never to allow the register of intermediate resumptions to fall in arrear, but to make the necessary entries immediately upon any resumptions or other occurrences taking place.—Reg. XIX., 1793, sec. xxxvi.; Reg. XLI., 1795, sec. xxxvi.; Reg. XXXI., 1803, sec. xxxi.

95. A counterpart of the register of intermediate resumptions is to be kept by the keepers of the native records, in the same form as the English register, and in a book, the leaves of which are, in like manner, to be paged and attested by the judge of the Dewanny Adawlut of the zillah [judge of the city in Benares].—Reg. XIX., 1793, sec. xxxvii.; Reg. XLI., 1795, sec. xxxvii.; Reg. XXXI., 1803, sec. xxxii.

96. When a periodical register shall have been transcribed fair into the book attested by the judge of the zillah [judge of the city in Benares], as directed in paragraph 87, if it shall be discovered that the entries respecting any land are erroneous or incomplete, or that there are any material inaccuracies of

the transcriber, the entries are not to be altered or erased, but are to stand, and the collector is to cause the errors or omissions to be noted in the register of intermediate resumptions, and to attest the entry with his signature, and insert in red ink, opposite to the erroneous or incomplete entry in the periodical register, the number of the page in the register of intermediate resumptions in which the errors or omissions may be noted, and at the end of the note, specify the number of the page of the periodical register in which the property may be registered. Errors or omissions in the register of intermediate resumptions are to be noted in a similar manner.—Reg. XIX., 1793, sec. xxxviii.; Reg. XLI., 1795, sec. xxxviii.; Reg. XXXI., 1803, sec. xxxiii.

97. Erroneous or incomplete entries in the counterparts of the registers to be kept by the keepers of the native records are to be noted by them in the same manner as the collector is directed to note erroneous entries in the English registers. But the note of every such entry in the counterpart of the register of intermediate resumptions in the country languages shall, in addition to the attestation of the keepers of the native records, be signed by the collector.—Reg. XIX., 1793, sec. xxxix.; Reg. XLI., 1795, sec. xxxix.; Reg. XXXI., 1803, sec. xxxiv.

98. If the proprietary right in any grant of exempted land shall be under litigation in a Court of Justice at the time of forming the first or any subsequent periodical register, the party in possession is to be registered as the proprietor.—Reg. XIX., 1793, sec. xl.; Reg. XLI., 1795, sec. xl.; Reg. XXXI., 1803, sec. xxxv.

99. If a collector shall have occasion to require from the holder of a grant any information that may be necessary to enable him to form a periodical register, or to make the requisite entries in the register of intermediate resumptions, and such person shall omit to furnish it by the time required, after having been served by the collector with a written requisition for that purpose, under his official seal and signature, the collector, unless the defaulter shall prove to his satisfaction that it was not in his power to furnish it, may impose of his own authority such daily fine, to be payable daily until compliance with the requisition, as he may think adequate to the situation and circumstances in life of the defaulter, not exceeding in any case the daily fine of fifty rupees; and the amount of such fine, accruing due from time to time, may be levied without further confirmation, by the same process as is prescribed for the recovery of arrears of revenue. The Board of Revenue are to furnish the collectors in the several zillahs with such records or information as they may possess regarding the exempted lands in their respective zillahs, as well to assist them in preparing the first periodical register and in detecting frauds that may be attempted to be practised upon them in registering the grants, as to aid them in ascertaining what lands, now held exempt from the payment of revenue, are liable to the payment of revenue under these rules.—Reg. XIX., 1793, sec. xli.; Reg. XLI., 1795, sec. xli.; Reg. XXXI., 1803, sec. xxxvi.

100. The collectors of the several zillahs are to transmit, as early as may be practicable, to the Board of Revenue, an attested copy of the periodical registers, both in the English and the native languages, each in a book of the prescribed size, paged and attested by the judge of the Dewanny Adawlut of the zillah, in the same manner as the original register, as directed in paragraph 87, and within one month after the expiration of the third, sixth, ninth, and twelfth months of the Bengal, Fusly, and Willaity year (according to the era current in their respective districts), an attested copy of the entries in the register of intermediate resumptions that may have taken place during the three preceding months. Whenever the Zillah and City Courts of Dewanny Adawlut may have occasion to refer to any of the registers herein prescribed, they are authorized to require from the collectors the production of the original register, or an attested copy of such part thereof as may contain the required information. The collectors, on the receipt of such requisition, are immediately to transmit the original register, if it can be sent without inconvenience, under the care of one of their native officers, in whose custody it is to remain till returned; or if the original register cannot be conveniently sent, are to transmit without delay an accurate copy of such part thereof as may be required, under the attestation of their official signature. In like manner, the Board of Revenue, on the requisition of the Court of Sudder Dewanny Adawlut, are to furnish any zillah register received by them which may be required by that Court; or a copy, attested by the signature of their secretary or accountant, of any part thereof which may be required. In the event of any register required by a Court of Justice not having been prepared, and the period fixed for its preparation having elapsed, the collector is to explain to the Court the cause of such register not having been prepared, and the explanation so given is to be transmitted by the Court receiving it to the Governor-General in Council. Any person succeeding to the office of collector, or invested with the temporary charge of such office, is also required, immediately on his taking charge, to ascertain whether the prescribed registers have been duly prepared; and if not, to report the same to the Board of Revenue, with any explanation he may have received of the omission, for the information of the Governor-General in Council.—Reg. XIX., 1793, sec. xlii.; Reg. XLI., 1795, sec. xlii.; Reg. VIII., 1800, sec. xv.; Reg. XXXI., 1803, sec. xxxvii.

101. The copies of the registers which the collectors are required by the preceding paragraph to furnish to the Board of Revenue, shall be transmitted by the collectors at the periods therein specified,

in the English and Persian languages, to the accountant of the Board of Revenue, who is to report to the Board any instances of the prescribed quarterly copies not having been received at the fixed periods, or of the quinquennial copies not having been received within the year at the commencement of which the quinquennial registers are directed to be prepared; and is to return to the collectors, for correction, any copies of registers received from them which may not have been prepared according to the prescribed form.—Reg. VIII., 1800, sec. xvi. (NOTE.—*The preceding rule was not embodied in the Regulation for the Ceded and Conquered Provinces.*)

102. The Board of Revenue, and the collectors are enjoined to be particularly attentive to the preservation of the periodical registers and registers of intermediate resumptions, both in the English and native languages; and they are directed to have the fair copies of each, which are to be deposited amongst the public records, bound up with such materials as may be best calculated to prevent their being destroyed by insects, or otherwise.—Reg. XIX., 1793, sec. xliii.; Reg. XLI., 1795, sec. xliii.; Reg. VIII., 1800, sec. xv.; Reg. XXXI., 1803, sec. xxxviii.

103. The periodical register which is to be formed in each of the zillahs at the commencement of the Bengal, Fusly, and Willaity year 1207, and at the commencement of every succeeding five years, is to be prepared from the preceding periodical register, and the entries in the subsequent register of intermediate resumptions, with the omission of any grants of land that may have been subjected to the payment of revenue during the preceding five years, or that may have been transferred to the jurisdiction of another zillah, and with the addition of any such grants of land that may have been annexed to the zillah, or that may have been adjudged not subject to the payment of revenue, or that may have been admitted upon the register by the Governor-General in Council under paragraph 83. The materials for each periodical register will thus be ready upon the arrival of the period for preparing it, and the register will be completed by the mere transcript of them into the book, arranged according to the prescribed form.—Reg. XIX., 1793, sec. xliv.; Reg. XLI., 1795, sec. xliv.; Reg. XXXI., 1803, sec. xxxix. (NOTE—*The latter rule substitutes* "Fusly, 1215," *for the words underlined.*)

104. The judges of the Zillah and City Courts in the four provinces shall furnish the collectors of the districts in which the land may be situated, and the Board of Revenue, with a copy of every decree in suits between individuals, which they may pass, or which may be sent to them by superior Courts to enforce, by which the right in, or possession of, any lands held exempt from the payment of public revenue, under whatever description of grant the same may be so held, may be affected, in order that the collectors may be enabled to make the necessary entries of the alterations in such right or possession to be inserted in the quinquennial registers of lands held exempt from the payment of revenue. The copies of such decrees shall be transmitted by the judge within twenty days after the same may be passed or received by him.—Reg. LVIII., 1795, sec. iii.; Reg. XXXI., 1803, sec. xl. (NOTE.—*See post, Section XI., Regulation III.*, 1828, *paragraph* 329.)

105. If it shall be proved, to the satisfaction of the judge of the Dewanny Adawlut of any city or zillah, that a native officer of a collector, or of an assistant to a collector, shall have received, directly or indirectly, any sum of money or effects, or other property, from any person for registering a grant, or on account of any matter relating to the registry thereof, the Court shall adjudge him dismissed from his office, and compel him to repay the money proved to have been taken, with a fine of three times the amount to Government, and costs to the party suing him, and commit him to prison until he shall have discharged the amount of the decree, or it shall have been made good by the sale of his property.—Reg. XIX., 1793, sec. xlv.; Reg. XLI., 1795, sec. xlv.; Reg. XXXI., 1803, sec. xli.

106. If any native servant or dependent of a collector, or of an assistant to a collector, not being a public officer, shall be convicted before the Court of Dewanny Adawlut of the offence specified in the preceding paragaph, he shall be compelled to restore the money to the person from whom it may have been taken, and to pay a fine of three times the amount to Government, with costs to the party suing, and be confined for six months; and if he shall not discharge the amount of the decree by the expiration of the sixth month, he shall be confined until he make good the amount, or it shall be realized from the sale of his property; and the collector or assistant is to discharge such servant, and never to employ him in his public or private capacity.—Reg. XIX., 1793, sec. xlvi.; Reg. XLI., 1795, sec. xlvi.; Reg. XXXI., 1803, sec. xlii.

107. All the rules herein contained respecting lands now held, or that may be claimed to be held exempt from the payment of revenue, under life grants made previous to the date of the Company's accession, are to be considered equally applicable to grants made previous to that date for a term only.—Reg. XIX., 1793, sec. xlvii.; Reg. XLI., 1795, sec. xlvii.; Reg. XXXI., 1803, sec. xliii. (NOTE.—*The Ceded Provinces rule substitutes* "1st January, 1801," *for the words underlined.*)

108. No part of these rules is to be considered to annul any grants for holding land exempt from the payment of revenue, made or confirmed by the late superintendents of the bazee zemin dufter in Bengal, in virtue of the powers vested in them.—Reg. XIX., 1793, sec. xlviii.

109. Nor to extend to jaghire, altumgah, muddud-maash, aymah, or other grants of land termed badshahi, or royal, and held, or stated to be held, under a royal firmaun. The rules applicable to such grants are contained in Regulation XXXVII., 1793.—*Reg.* XIX., 1793, sec. xlix.; Reg. XLI., 1795, sec. xlviii.; Reg. XXXI., 1803, sec. xliv.

NOTE.—In addition to the preceding rules for the registry of "LA-KHIRAJ," the rules in Sections XVII., XVIII., and XXI., Regulation VIII., 1800 ("REGISTRY OF ESTATES," paragraphs 61, 62, 63), are also applicable, so far as relates to the Lower Provinces and Benares; these rules, not having been incorporated in the Regulation for the Ceded Provinces, are not applicable to those provinces. The rules for the Pergunnah Register of Malguzary and La-khiraj will be found under "REGISTRY OF ESTATES," commencing with paragraph 48.

## ORIGINAL RULES FOR BADSHAHI GRANTS.

### *VALIDITY OF GRANTS.*

### *Bengal, Behar, and Orissa.*

NOTE.—Section XXV., Regulation XII., 1805, enacts, that "all the provisions of Regulation XXXVII., 1793, which are not superseded" by any of the rules specially enacted for Cuttack, and which are inserted in their respective places in the following arrangement, "shall be considered to be in force in the said zillah."

110. Altumgah, jaghire, ayma, muddudmaush, or other badshahi grants for holding land exempt from the payment of revenue, made previous to the 12th August, 1765, the date of the Company's accession to the Dewanny, shall be deemed valid, provided the grantee actually and bonâ fide obtained possession of the land so granted previous to that date, and the grant shall not have been subsequently resumed by the officers or the orders of Government. If it shall be proved, to the satisfaction of the Court, that the grantee did not obtain possession of the land so granted previous to the 12th August, 1765, or that he did obtain possession of it prior to that date, but that it has been since resumed by the officers or the orders of Government, the grant shall not be deemed valid.—Reg. XXXVII., 1793, sec. ii., cl. 1.

111. In the event, however, of a claim being preferred by any person to hold land exempt from the payment of revenue, under a badshahi grant made previous to the date of the Company's accession to the Dewanny, and on it being proved, to the satisfaction of the Court in which the suit may be instituted in the first instance, or to which it may be appealed, that the grantee held the land exempt from the payment of revenue, but that it was subjected to the payment of revenue posterior thereto by an officer of Government, and the Court shall entertain doubts as to the competency of such officer, under the powers vested in him, to resume the grant and subject the lands to the payment of revenue, the Court shall suspend its judgment, and report the circumstances to the Governor-General in Council, to whom a power is reserved of determining whether such officer was or was not competent to resume the grant, and upon receiving the determination of the Governor-General in Council, the Court is to decide accordingly. No such claim, however, to hold exempt from the payment of revenue, land that may have been subjected to the payment of revenue for the twelve years preceding the date on which the claim may be instituted, shall be heard by any Zillah or City Court, unless the claimant can show good and sufficient cause for not having preferred the claim to a competent authority within the twelve years, and proceeded in it, as required by Section XIV., Regulation III., 1793 ("CIVIL COURTS, CONSTITUTION AND JURISDICTION").—Reg. XXXVII., 1793, sec. ii., cl. 2.

112. But no part of the two preceding paragraphs is to be construed to empower the Courts to adjudge any person, not being the original grantee entitled to hold land paying revenue to Government, exempt from the payment of revenue, under a jaghire, or other grant made previous to the Company's accession to the Dewanny, where the grant may expressly specify it to have been given for the life of the grantee only; or supposing no such specification to have been made in the grant, or the grant not to be forthcoming, where the grant, from the nature and denomination of it, shall be proved to be a life tenure only, according to the ancient usages of the country.—Reg. XXXVII., 1793, sec. ii., cl. 3.

113. Nor to entitle the heirs of any person now holding lands exempt from the payment of public revenue under a jaghire, or other badshahi life grant, made previous to the Dewanny, to succeed to and hold such land exempt from the payment of revenue upon the demise of the present possessor; where the grant may expressly specify it to have been given for the life of the grantee only, or supposing no such specification to have been made in the grant, or the grant not to be forthcoming, where from the nature and denomination of the grant it shall be proved to be a life tenure only, according to the ancient usages of the country.—Reg. XXXVII., 1793, sec. ii., cl. 4.

114. The present possessors of lands now exempt from the payment of revenue under such jaghire or other life grants made previous to the dewanny, and declared by the preceding paragraph not to be hereditary, are prohibited from selling or otherwise transferring them, or mortgaging the revenue of the lands for a longer period than their own lives; and all such transfers and mortgages which have been or may be made, are declared illegal and void.—Reg. XXXVII., 1793, sec. ii., cl. 5.

115. All badshahi grants for holding land exempt from the payment of revenue, which may have been made since the 12th August, 1765, by any other authority than that of Government, and which may not have been confirmed by Government, or by any officer empowered to confirm them, are declared invalid.—Reg. XXXVII., 1793, sec. iii., cl. 1.

116. If doubts shall be entertained by any Court as to the competency of the authority of any officer to confirm any such grant, the Court is to suspend its judgment, and report the circumstances of the case to the Governor-General in Council, to whom a power is reserved of determining finally whether the officer possessed competent authority to confirm the grant, or otherwise; and the Court, upon receiving the determination of the Governor-General in Council, shall decide accordingly.—Reg. XXXVII., 1793, sec. iii., cl. 2.

*Benares.*

117. The term badshahi grant is to be construed to extend to all grants made by the supreme power for the time being, and consequently to include grants of the following descriptions: 1st, royal grants, properly so called; 2ndly, grants made by the Soubahdars of Oude; and 3rdly, grants made by the authority of the British Government.—Reg. XLII., 1795, sec. ii., cl. 1.

118. Altumgah, jaghire, ayma, muddud maash, or other badshahi grants for holding land exempt from the payment of revenue, made previous to the 1st of July, 1775, the date of the cession of the province of Benares to the Company, shall be deemed valid, provided the grantee actually and bonâ fide obtained possession of the land so granted previous to that date, and the grant shall not have been subsequently resumed by the officers or the orders of Government. If it shall be proved to the satisfaction of the Court, that the grantee did not obtain possession of the land so granted previous to the 1st July, 1775, and that it has not been since confirmed to him by the authority of the Governor-General in Council, or that he did obtain possession of it prior to that date, but that it has been since resumed by the officers or the orders of Government, the grant shall not be deemed valid.—Reg. XLII., 1795, sec. ii., cl. 2.

119 to 122. [Clauses Third to Sixth, Section II., Regulation XLII., 1795.] *Same as paragraphs* 111 *to* 114, *substituting the date* "1st July, 1775," *for* "the date of the Company's accession to the Dewanny."

123. All badshahi grants for holding land exempt from the payment of revenue, which may have been made since the 1st of July, 1775, by any other authority than that of Government, and which may not have been confirmed by Government, or by any officer empowered to confirm them, are declared invalid. But grants of land held exempt from the payment of revenue under grants made by the Residents at Benares since the 1st of July, 1775, are not to be annulled by the decree of the City or any Zillah Court, but the judge is to proceed with them as directed with regard to the grants mentioned in paragraph 125.—Reg. XLII., 1795, sec. iii., cl. 1.

124. The Governor-General in Council having determined, on the 11th April, 1788, that the lands assigned in the year 1781, in lieu of malikanah, to certain dispossessed zemindars, should not descend to the heirs of the present incumbents without his express orders for that purpose, the judges and the collector are to attend to this rule; and the latter is accordingly to attach such lands on the demise of the present holders, until the determination of Government respecting them be received.—Reg. XLII., 1795, sec. iii., cl. 2.

125. [Clause Third, Section III., Regulation XLII., 1795.] *Same as paragraph* 116.

*Ceded Provinces.*

126. The term badshahi grant shall be construed to extend to all grants made by the supreme power for the time being, and consequently to include grants of the following description. First, royal grants, properly so called; secondly, grants made by the soubahdars of Oude and by the Nawaubs of Furruckabad; thirdly, grants in Rohilcund, made by the princes of that country prior to the 23rd of April, 1774.—Reg. XXXVI., 1803, sec. ii., cl. 1.

127. [Clause Second, Section II., Regulation XXXVI., 1803.] *Same as paragraph* 110, *substituting* "1st January, 1801," *for* "12th August, 1765, the date of the Company's accession to the Dewanny."

128. [Clause Third, Section II., Regulation XXXVI., 1803.] *Same as paragraph* 111, *substituting* "1st, January, 1801," *and omitting the last paragraph*, "No such claim," &c. &c.

129 to 131. [Clauses Fourth, Fifth, and Sixth, Section II., Regulation XXXVI., 1803.] *Same as paragraphs* 112, 113, 114, *substituting* "1st January, 1801," *for* "the Company's accession to the Dewanny."

132. [Section III., Regulation XXXVI., 1803.] *Same as paragraphs* 115, 116, *substituting* "1st January, 1801," *for* "12th August, 1765."

*Conquered Provinces.*

133. Regulation XXXVI., 1803, is hereby extended to the zillahs in the Conquered Provinces, with the following modifications.—Reg. VIII., 1805, sec. xxiv., cl. 1.

134. Under the definition of badshahi grants contained in paragraph 126, viz., all grants made by the supreme power for the time being, it is hereby declared, that the following description of grants shall be considered as badshahi. First, royal grants, properly so called; secondly, grants made by Dowlut Rao Scindiah, or his predecessors in authority, in the Conquered Provinces in the Dooab and on the right bank of the river Jumna; thirdly, grants made by the Peishwa, or his predecessors, in the territory ceded to the Honourable the English East-India Company in Bundlecund.—Reg. VIII., 1805, sec. xxiv., cl. 2.

135. If any grants of the description specified in Regulation XXXVI., 1803, shall have been made by other authorities than those stated in the preceding paragraph, a report of the same shall be made to the Governor-General in Council, who reserves to himself the power of declaring whether such grants shall be deemed badshahi, and valid or otherwise.—Reg. VIII., 1805, sec. xxiv., cl. 3.

136. The 1st day of January, 1803, or 23rd of Poose, 1210, Fusly, is substituted for the 1st of January, 1801, in the several sections of Regulation XXXVI., 1803, with respect to the zillahs to which that Regulation is now extended.—Reg. VIII., 1805, sec. xxiv., cl. 4.

*Cuttack.*

137. The term badshahi grant shall be construed to extend to all grants made by the supreme power for the time being, and consequently to include grants of the following descriptions:—First, royal grants, properly so called; secondly, grants made by the Soubah of Orissa; and thirdly, grants made by the rajahs of Berar.—Reg. XII., 1805, sec. xxvi., cl. 1.

138. [Clause Second, Section XXVI., Regulation XII., 1805.] *Same as paragraph* 110, *substituting* "14th October, 1803," *for* "12th August, 1765, the date of the Company's accession to the Dewanny."

139. [Clause Third, Section XXVI., Regulation XII., 1805.] *Same as paragraph* 111, *substituting* "14th October, 1803," *for the date, and omitting the last paragraph,* "No such claim, &c., &c."

140 to 142. [Clauses Fourth, Fifth, Sixth, Section XXVI., Regulation XII., 1805.] *Same as paragraphs* 112, 113, and 114, *substituting for the date,* "14th October, 1803."

143 and 144. [Sections XXVII., XXVIII., Regulation XII., 1805.] *Same as paragraphs* 115 *and* 116, *substituting for the date,* "14th October, 1803."

*PROPRIETARY RIGHT IN THE LAND, AND ASSESSMENT OF RESUMED LA-KHIRAJ.*

*Bengal, Behar, and Orissa.*

145. It is to be understood that this Regulation respects only the Government proportion of the revenue arising from lands held or claimed to be held under badshahi grants, and whether Government is entitled to resume or retain such revenue or otherwise. Every dispute or claim regarding the zemindary or proprietary right in lands included in any grant, is to be considered as a matter of a private nature between the contending parties, and is to be determined in the Dewanny Adawlut.—Reg. XXXVII., 1793, sec. iv.

146. When a jaghire or other life-grant shall escheat to Government, the collector is immediately to attach the revenue of the lands, and report the circumstances to the Board of Revenue, who are to obtain the orders of the Governor-General in Council regarding the resumption of the grant.—Reg. XXXVII., 1793, sec. v.

147. When any badshahi grant shall be resumed, or expire, or escheat to Government, the revenue to be paid to Government from the lands included in it shall be assessed, and the settlement made in perpetuity, agreeably to the rules for the decennial settlement contained in Regulation VIII., 1793 ("SETTLEMENT"), with the person possessing the zemindary or proprietary right in the lands, whoever he may be. If the proprietor shall refuse to pay the jumma demanded of him, the lands shall be held khas or let in farm, as directed in that Regulation.—Reg. XXXVII., 1793, sec. vi.

*Benares.*

148, 149. [Sections IV., V., Regulation XLII., 1795.] *Same as paragraphs* 145, 146.

150. [Section VI., Regulation XLII., 1795.] *Same as paragraph* 147, *substituting* "V., 1795," *for* "VIII., 1793," *and omitting the final words,* "as directed in that Regulation."

*Ceded Provinces.*

151 and 152. [Sections IV. and V., Regulation XXXVI., 1803.] *Same as paragraph* 145, 146.

153. [Section VI., Regulation XXXVI., 1803.] *Same as paragraph* 146, *omitting the words* "in perpetuity" *and* "decennial," *and substituting* "XXVII., 1803," *for* "VIII., 1793."

*SUITS AGAINST GOVERNMENT.*

*General Rules.*

154. Any person having a claim to hold lands paying revenue exempt from the payment of revenue under a badshahi grant, must institute his claim against Government, who alone can be the defendant in such suits, in the Dewanny Adawlut, in the jurisdiction of which such lands are situated, in the same manner as in cases where individuals may claim a right to hold lands paying revenue exempt from the payment of revenue under grants not of the description of those termed badshahi, in virtue of Regulations XIX., 1793; XLI., 1795; and XXXI., 1803. The collectors of the revenue are to defend all such suits as may be instituted against Government, and such suits are to be defended by the vakeel of Government, under the instructions of the collector; and in the event of Government being cast, either wholly or in part, or if the collector shall be dissatisfied with the decree in any respect, all the rules contained in Section XXX., Regulation XIV., 1793; Section XXXVI., Regulation VI., 1795; or Section XXXIII., Regulation XXVII., 1803 ("REALIZATION OF REVENUE, paragraphs 30 and 145,") and the other sections in those Regulations respecting decisions given against a collector in any Zillah Court, in suits instituted against him by any proprietor or farmer of land, for sums of money demanded or actually received by him as arrears of revenue, are to be held applicable to such decree, with this difference, that the suit, from the commencement of it, is to be defended at the expense of Government, and in the event of the Board of Revenue not deeming it proper to order an appeal from the decision of the Zillah Court to be preferred to the Sudder Dewanny Adawlut, they are to report their reasons in both cases for not preferring the appeal to the Governor-General in Council, who will direct the cause to be appealed or not, in either case, as may appear to him proper.—Reg. XXXVI., 1793, sec. x.; Reg. XLII., 1795, sec. x.; Reg. XXXVI., 1803, sec. x.

155. If it shall appear to any Court of Judicature, during the course of a trial, that a grant has been forged, or that the name of the original grantee has been erased and any other name substituted, or that any name not in the original grant has been inserted, or that the denomination or the terms of the tenure in the original grant have been erased or altered, or that the date of the grant has been changed, or that the grant has been antedated, the grant shall be adjudged null and void.—Reg. XXXVII., 1793, sec. xii.; Reg. XLII., 1795, sec. xii.; Reg. XXXVII., 1803, sec. xii.

156. Any person by whom any of the frauds specified in the preceding paragraph may appear to have been committed, or who may have been concerned therein, shall, provided the Court is of opinion that there are sufficient grounds for a criminal prosecution, be committed or held to bail, according to the circumstances of the case, to take his trial before the Court of Sessions.—Reg. XXXVII., 1793, sec. xiii.; Reg. XLII., 1795, sec. xiii.; Reg. XXXVI., 1803, xiii.

157. Altumgah, ayma, and muddudmaush grants are to be considered as hereditary tenures. These and other grants, which from the nature of them may be hereditary and are declared valid by these rules, or which have been or may be confirmed by the British Government, or any of its officers possessing competent authority to confirm them, are declared transferable by gift, sale, or otherwise, and all persons succeeding to such grants, by whatever mode, are required to register their names in the office of the collector, within six months after they may succeed to the grant. But all such purchases are to be considered as made at the risk of the purchaser; and in the event of the grant not proving to be hereditary, or not to have been made or confirmed by the British Government, or its officers possessing competent authority, the transfer is not to preclude the land from being subjected to the payment of revenue under these rules. Jaghires are to be considered as life tenures only, and with all other life tenures are to expire with the life of the grantee, unless otherwise expressed in the grant.—Reg. XXXVII., 1793, sec. xv.; Reg. XLII., 1795, sec. xv.; Reg. XXXVI., 1803, sec. xv.

## REGISTRY.

*General Rules.*

158. When any grant shall be adjudged invalid, or shall expire or escheat to Government, the name of the pergunnah (or other local division where there may be no pergunnah), sircar, and

soubah, in which the lands may be situated, with the exact number of villages or other sub-divisions comprised therein, as particularized in the pergunnah register directed to be kept by Regulations VIII., 1800, and XLII., 1803 ("REGISTRY OF ESTATES"), the amount of the public revenue assessed thereon, the name or names of the proprietor or proprietors, and a copy of the decree, are to be entered in the register of intermediate resumptions and occurrences, directed to be kept by paragraph 177, and opposite to such entry the collector is to insert, in red ink, the number of the page in the periodical register directed to be kept by paragraph 160, in which the lands may stand recorded; and in the periodical register he is to specify in red ink the number of the page in the register of intermediate resumptions and occurrences in which the decree adjudging the land subject to the payment of revenue, and the other entries above specified, may be inserted. These entries in the register of intermediate resumptions and occurrences are likewise to be inserted in the register of intermediate mutations in landed property paying revenue to Government ("REGISTRY OF ESTATES," paragraphs 25, 26), in order that the land may be recorded in its proper place, as an estate paying revenue to Government, in the next quinquennial register which may be formed. The collector is to insert in red ink, opposite to the entries relating to such lands in the periodical register and the register of intermediate resumptions and occurrences, the number of the page in the register of intermediate mutations in which the above required entries may be made; and he is also to specify in red ink, opposite to such entries in the register of intermediate mutations, the number of the page in the periodical register and the register of intermediate resumptions and occurrences in which such entries respecting the land may be inserted.—Reg. XXXVII., 1793, sec. xvi., cl. 1; Reg. XLII., 1795, sec. xvi., cl. 1; Reg. VIII., 1800, secs. xi., xii.; Reg. XXXVI., 1803, sec. xvi., cl. 1.

159. When land now subject to the payment of revenue shall be finally adjudged, on the claim of any individual, to be exempted from the payment of revenue under any grant, or when the Governor-General in Council shall make any new grant, the name of the pergunnah (or other local division where there may be no pergunnah), sircar, and soubah, in which the lands granted may be situated, with the exact number of villages or other subdivisions comprised therein, as particularized in the pergunnah register directed to be kept by Regulations VIII., 1800, and XLII., 1803 ("REGISTRY OF ESTATES"), the name or names of the grantee, the amount of the revenue before assessed thereon, and a copy of the decree or grant, are to be entered in the register of intermediate mutations ("REGISTRY OF ESTATES," paragraphs 25, 26), and the collector is to insert in red ink, opposite to such entry, the number of the page in the last-formed quinquennial register in which such mohauls, villages, or lands, may be recorded, that the lands included in the grant may be omitted in the quinquennial register which may be next formed, and also the number of the page in the register of intermediate resumptions and occurrences directed to be kept by these rules, in which such entries are also to be recorded, that they may be inserted in their proper place in the periodical register of grants that may be next formed; and the collector shall insert in red ink, opposite to such entries, the number of the page in the register of intermediate mutations from which they may have been taken.—Reg. XXXVII., 1793, sec. xvi., cl. 2; Reg. XLII., 1795, sec. xvi., cl. 2; Reg. VIII., 1800, secs. xi. and xii.; Reg. XXXVI., 1803, sec. xvi., cl. 2.

160. That Government and its officers may have in their possession, at all future periods, a complete register of all the lands in the provinces held exempt from the payment of revenue under badshahi grants, a register of all such grants shall be formed every five years in each zillah. The register is to specify the denomination of each grant, whether altumgah, jaghire, or other tenure, the name of the original grantee and of the person in possession; and if the person in possession be not the original grantee, his relationship to him, if any relationship should exist, and in virtue of what right he succeeded to the grant; the date of the grant, the name or names of the person or persons possessing the zemindary or proprietary right in the lands, the name of the pergunnah (or other local division where there may be no pergunnah), sircar, and soubah, in which the land granted may be situated, with the exact number of villages or other subdivisions comprised therein, as particularized in the pergunnah register directed to be kept by Regulations VIII., 1800, and XLII., 1803 ("REGISTRY OF ESTATES"). The collectors are enjoined to take the utmost care, that the names of the pergunnahs (or other local divisions where there may be no pergunnahs), as well as the number of villages or other subdivisions stated to be in each, are exactly conformable to the pergunnah register; and are to furnish their native officers, appointed to prepare the counterpart registers, with particular instructions for this purpose. The register shall be denominated the "periodical register of lands held exempt from the payment of revenue under badshahi grants."—Reg. XXXVII., 1793, sec. xvii.; Reg. XLII., 1795, sec. xvii.; Reg. VIII., 1800, secs. xi. and xii.; Reg. XXXVI., 1803, sec. xvii.

161. Upon the receipt of this Regulation, the Board of Revenue are to prepare a form for the periodical register, and transmit a copy of it for the guidance of the collectors, who are strictly enjoined to adhere to it.—Reg. XXXVII., 1793, sec. xviii.; Reg. XLII., 1795, sec. xviii.; Reg. XXXVI., 1803, sec. xviii.

162. All persons actually holding lands exempt from the payment of public revenue under

badshahi grants, and whether made or confirmed by the Government of the country for the time being, or any other authority, shall be allowed one year from the date of the publication prescribed in the following paragraph, to register the required particulars respecting their grants in the office of the collector of the revenue of the zillah in which the lands may be situated.—Reg. XXXVII., 1793, sec. xix.; Reg. XLII., 1795, sec. xix.; Reg. XXXVI., 1803, sec. xix.

163. To prevent any pleas being hereafter urged of ignorance of the rule contained in the preceding paragraph, the collector of each zillah in which any jaghire, altumgah, ayma, or muddudmaush, or other lands held under sunnuds or grants termed badshahi, may be situated, upon the receipt of this Regulation is to cause the following publication, which shall be written in the Bengal and Persian languages, in Bengal and Orissa, and in the Persian language, and the Hindostanee language and Nagaree character, in the other provinces, and attested with their official seals and signatures, to be fixed up in the principal cutcherry of the holders of grants of the description of those specified in this Regulation, and take a receipt from the holder of such grant, or the person entrusted with the management of it, specifying the date on which the publication may be fixed up, and that he will be responsible for the paper remaining so affixed for one year from the date of it. The collectors are further required to cause the prescribed publication to be fixed up in their own cutcherries, and in the cutcherries of the Civil Courts, within their respective zillahs, for general information.

"In conformity to Regulation XXXVII., 1793; Regulation XLII., 1795; and Regulation XXXVI., 1803, every person being actually in possession of altumgah, jaghire, ayma, muddudmaush, or other land, now exempt from the payment of revenue and held under badshahi grants, in the zillah of ———, whether made or confirmed by the Government of the country for the time being, or by whatever authority, are required to register the following particulars respecting such grants in the office of the collector of the zillah, before the expiration of one year from the date of this publication. If any holders of such grants who shall not register their grants, either in person or by a vakeel, with a vakalutnamah attested by two credible witnesses, and given for the express purpose of registering the grants, the grants will be considered liable to resumption, and the lands chargeable with the revenue, in the same manner as other lands subject to the payment of revenue. Persons having claims only to hold land exempt from the payment of revenue under such grants, but who do not now hold the lands exempted, are not to register the lands so claimed by them.

"Denomination of the grant, whether altumgah, jaghire, or other tenure.

"By whom granted.

"Name of the original grantee.

"Name of the present possessor, and if he be not the original grantee, his relationship to him, and whether he succeeded to the land hereditarily or by purchase, or what other mode.

"Date of the grant.

"The name or names of the mohauls or villages, or lands, comprised in the grant, or in which the land may be situated.

"The names of the zemindar or other proprietor of the mohauls, or villages, or lands included in the grant, whether such zemindary or proprietary right shall be vested in the grantee or any other person.

"The measurement of each mohaul or village, or the land included in the grant.

"The pergunnah or pergunnahs in which the lands may be situated.

"A copy of the original grant and other writings under which the land may be held."—Reg XXXVII., 1793, sec. xx.; Reg. XLII., 1795, sec. xx.; Reg. XXXVI., 1803, sec. xx. (NOTE.—*The words underlined are found only in the Ceded Provinces rule.*)

### *Bengal, Behar, Orissa, and Benares.*

164. It appearing that the publications directed in the preceding paragraph have not, in every instance, been made as therein directed, the collectors are hereby further directed, immediately on the receipt of this Regulation, to ascertain whether the publications above specified have been duly made as prescribed throughout their respective collectorships; and if not, they are to cause the same to be made without delay, in the manner prescribed, as well as in their own cutcherries, and in the cutcherries of the Dewanny Courts situated within their respective zillahs; allowing the further period of one year from the date of such publications for the registry of the lands therein specified. After the expiration of such period, any unregistered land found to be held exempt from the payment of revenue is to be assessed, under the provisions contained in the above Regulations, whenever the same may be discovered; and the collectors are to enter lands so assessed (together with all other la-khiraj lands which may be brought upon the public assessment) in their

succeeding quinquennial register of estates paying revenue, as well as in their register of intermediate mutations.—Reg. VIII., 1800, sec. xix.

*Ceded and Conquered Provinces.*

165. On receipt of this Regulation the collectors are required to issue the publications directed in paragraph 163, in the form therein prescribed, requiring all persons holding lands exempt from the payment of revenue to Government, to register such lands within the period of one year from the date of the publications.—Reg. VII., 1808, sec. ii.

166. After the term of one year from the date of the publications directed to be issued in the preceding paragraph, any lands held free of assessment which may have been omitted to be registered, are hereby declared liable to the payment of revenue to Government.—Reg. VII., 1808, sec. iii.

*Cuttack.*

167. The period of one year, reckoning from the expiration of the Willaity year 1212, shall be allowed to the proprietors to register their grants. On the expiration of that period of time, the collectors shall prepare the first periodical register of lands held exempt from the payment of revenue under badshahi tenures; and the second, third, and each successive register, at the expiration of every five years.—Reg. XII., 1805, sec. xxix.

*General Rule.*

168. If any person in possession of any such grant that may be now in force shall omit to register it by the time prescribed in the publication, together with as accurate a detail of the particulars thereby required as he may be able to furnish, the grant shall, by such omission, become subject to resumption, and the lands shall become liable to the payment of revenue to Government. The Governor-General in Council, however, reserves to himself the power of admitting any grant upon the register after the expiration of the prescribed time, in the event of the possessor showing good and sufficient cause, to his satisfaction, for not having registered it within the limited period, and the Board of Revenue are to report to the Governor-General in Council every case in which persons, who may have omitted to register their grants as required, may appear to them entitled to have their grants admitted upon the register.—Reg. XXXVII., 1793, sec. xxi.; Reg. XLII., 1795, sec. xxi.; Reg. XXXVI., 1803, sec. xxi., cl. 1.

*Bengal, Behar, Orissa, and Benares.*

169. The collectors shall receive a commission of twenty-five per cent. on the amount of the annual jumma, which may be assessed in perpetuity, on lands finally resumed and declared liable to be assessed with public revenue, under the preceding paragraph. The commission shall be paid to the collector who shall discover and report to the Board of Revenue the omission of the registry of the lands; unless the Governor-General in Council should deem it equitable, in any particular case, to give the whole or a part of the commission to any other collector.—Reg. LVIII., 1795, sec. ii.

*Ceded Provinces.*

170. The collectors shall receive a commission of twenty-five per cent. on the amount of the annual jumma which may be assessed on lands finally resumed and declared liable to be assessed with public revenue, under this paragraph. If circumstances should prevent the forming of a settlement of any of the lands on which the collectors may be entitled to a commission under this paragraph, it shall be at the option of the Governor-General in Council to grant a commission on whatever amount he may deem an equitable jumma for such lands. The commission shall be paid to the collector, who shall discover and report to the Board of Revenue the omission of the registry of the lands: unless the Governor-General in Council shall deem it equitable in any particular case to give the whole or a part of the commission to any other collector.—Reg. XXXVI., 1803, sec. xxi., cl. 2.

*General Rules.*

171. After the expiration of the period limited for registering grants, all grants not registered within the prescribed time, and which may not be subsequently admitted on the register by the Governor-General in Council, are declared forfeited, and the lands shall be assessed with revenue, agreeably to the rules prescribed for the decennial settlement.—Reg. XXXVII., 1793, sec. xxii.; Reg. XLII., 1795, sec. xxii.; Reg. XXXVI., 1803, sec. xxii.

172. It is expressly declared, however, that the registry of a grant under this Regulation is not to be considered as an admission of the right of the person in whose name it may be registered to the property in the soil, nor of the validity of his grant. Any person will be at liberty to sue in the Dewanny Adawlut for the former, and he will be liable to be sued for the resumption of the grant by

the collector, with the sanction of the Board of Revenue, in the event of it appearing to that Board that the grant is invalid.—Reg. XXXVII., 1793, sec. xxiii.; Reg. XLII., 1795, sec. xxiii.; Reg. XXXVI., 1803, sec. xxiii.

173. Upon the expiration of the period for registering the grants in each zillah, the collector is to prepare a draft of the register in the form which may be prescribed by the Board of Revenue, and to cause it to be transcribed into a book of such dimensions as they may direct. The book shall have the following inscription on the back of it:—"Periodical register formed under Regulation XXXVII., 1793 [Regulation XLII., 1795; Regulation XXXVI., 1803], of altumgah, jaghire, and other lands held exempt from the payment of revenue under badshahi grants, in the zillah of ———, at the commencement of the year ———, Bengal (Fusly or Willaity) era, corresponding with the year of the Christian era ———, number ———." Each leaf of the book shall be paged, and be signed by the judge of the Dewanny Adawlut of the zillah [judge of the city in Benares]; and on the last leaf of the book he is to note, in his own handwriting, the number of pages in the book, and subscribe the note with his signature, and no register is to be deemed authentic but such as may be entered in a book so paged and attested. The first periodical register is to be numbered one.—Reg. XXXVII., 1793, sec. xxiv.; Reg. XLII., 1795, sec. xxiv.; Reg. XXXVI., 1803, sec. xxiv.

174. The second periodical register is to commence with the year 1207 of the era current in each province [1215, Fusly, in the Ceded Provinces]. This register is to be numbered two; and the periodical register, to be prepared at the commencement of every subsequent five years, in the order in which it may be formed.—Reg. XXXVII., 1793, sec. xxv.; Reg. XLII., 1795, sec. xxv.; Reg. XXXVI., 1803, sec. xxv.

175. The keepers of the native records are to keep an exact counterpart of the English periodical register, in a volume of such dimensions as the Board of Revenue may prescribe, and which shall be paged, and be attested by the judge of the Dewanny Adawlut of the zillah [judge of the city in Benares] in the same manner as the books containing the English registers, and no other counterparts of the registers of grants shall be considered as authentic, but such as may be entered in a book so paged and attested.—Reg. XXXVII., 1793, sec. xxvi.; Reg. XLII., 1795, sec. xxvi.; Reg. XXXVI., 1803, sec. xxvi.

176. The counterpart registers are to be kept in the Persian language.—Reg. XXXVII., 1793, sec. xxvii.; Reg. XLII., 1795, sec. xxvii.; Reg. VIII., 1800, sec. xv.; Reg. XXXVI., 1803, sec. xxvii.

177. For the purpose of recording all resumptions, or new grants, or other occurrences respecting the grants which form the subject of this Regulation, that may take place during the interval of the five years between the forming of each periodical register, and the particulars of which will be necessary for forming the second and all future periodical registers, the collectors are to prepare a book of such dimensions as the Board of Revenue may prescribe, and which shall be denominated "The register of intermediate resumptions, or other occurrences, respecting altumgah, jaghire, or other badshahi grants," and shall have the following inscription on the back, "Register formed under Regulation XXXVII., 1793 [Regulation XLII., 1795, and Regulation XXXVI., 1803], of intermediate resumptions or other occurrences respecting altumgah, jaghire, or other lands, held exempt from the payment of revenue under badshahi grants in the zillah of ———, between the commencement of the year ——— and the end of the year ———, Bengal (Fusly or Willaity) era." Previous to any entries being made in this register it is to be paged, and the judge of the Dewanny Adawlut of the zillah [judge of the city in Benares] is to sign each leaf of it, and on the last leaf note, in his own handwriting, the number of pages contained in the book, and attest the note with his signature. The collector is to cause to be entered in this register all grants not registered within the time prescribed in the publication in paragraph 163, which the Governor-General in Council may order to be admitted upon the register under paragraph 168, all grants of land that may be adjudged or become liable to the payment of revenue, all lands now paying revenue which may be adjudged to be held exempt from the payment of revenue by any individuals under any grant, all new grants that may be made by the Governor-General in Council, and all exempted lands held under such grants which may be separated from or annexed to the jurisdiction of the zillah, with the authority for these several occurences, and also the particulars for completing the requisite entries in the register of intermediate occurrences, in the cases specified in paragraphs 158 and 159, in which entries are directed to be made in that register.—Reg. XXXVII., 1793, sec. xxviii.; Reg. XLII., 1795, sec. xxviii.; Reg. XXXVI., 1803, sec. xxviii.

178. When mohauls are ordered to be separated from one zillah and annexed to another, the collector of the zillah from which the separation is to take place is to transmit to the collector of the zillah to which the annexation is to be made a copy of the entries in the preceding periodical register, as far as they may regard the badshahi grants in such mohauls, and also of any entries respecting them in the register of intermediate occurrences which may have taken place subsequent to the forming of the last periodical register.—Reg. XXXVII., 1793, sec. xxix.; Reg. XLII., 1795, sec. xxix.; Reg. XXXVI., 1803, sec. xxix.

179. Upon the arrival of the period when the separation is to be carried into effect, the collector of the zillah from which the separation may be directed to be made is to transmit to the judge of the Dewanny Adawlut of his zillah copies of the entries in the last periodical register and register of intermediate occurrences, which may relate to the grants to be separated from his zillah; and the collector to whose zillah the annexation may be made is to transmit copies of the above-mentioned entries (with which he is directed to be furnished in the preceding paragraph) to the judge of the zillah. Immediately on the receipt of these papers, the Court from the jurisdiction of which the separation may be made are to transmit the papers in the causes depending before it, which, in consequence of the separation, may become cognizable in any other Zillah Court, to such Court, and to cause notification thereof to be communicated to the parties in writing.—Reg. XXXVII., 1793, sec. xxx.; Reg. XLII., 1795, sec. xxx.; Reg. XXXVI., 1803, sec. xxx.

180. The collectors are to attest all entries in the register of intermediate resumptions and occurrences with their official signatures; and they are strictly enjoined never to allow that register to fall in arrear, but to make the necessary entries immediately upon any resumptions or other occurrences taking place.—Reg. XXXVII., 1793, sec. xxxi.; Reg. XLII., 1795, sec. xxxi.; Reg. XXXVI., 1803, sec. xxxi.

181. A counterpart of the register of intermediate resumptions and occurrences is to be kept by the keepers of the native records, in the same form as the English register, and in a book, the leaves of which are, in like manner, to be paged and attested by the judge of the Dewanny Adawlut of the zillah.—Reg. XXXVII., 1793, sec. xxxii.; Reg. XLII., 1795, sec. xxxii.; Reg. XXXVI., 1803, sec. xxxii.

182. When a periodical register shall have been transcribed fair into the book attested by the judge of the zillah [judge of the city in Benares], as directed in paragraph 173, if it shall be discovered that the entries respecting any grant are erroneous or incomplete, or that there are any material inaccuracies of the transcriber, the entries are not to be altered or erased, but are to stand, and the collector is to cause the errors or omissions to be noted in the register of intermediate resumptions and occurrences, and to attest the entry with his signature, and insert in red ink, opposite to the erroneous or incomplete entries in the periodical register, the number of the page in the register of intermediate resumptions and occurrences in which the errors or omissions may be noted, and at the end of the note specify the number of the page of the periodical register in which the property may be registered. Errors or omissions in the register of intermediate resumptions and occurrences are to be noted in a similar manner.—Reg. XXXVII., 1793, sec. xxxiii.; Reg. XLII., 1795, sec. xxxiii.; Reg. XXXVI., 1803, sec. xxxiii.

183. Erroneous or incomplete entries in the counterparts of the registers to be kept by the keepers of the native records, are to be noted by them in the same manner as the collector is directed to note erroneous entries in the English registers. But the note of every such entry in the counterpart of the register of intermediate resumptions and occurrences in the country languages shall, in addition to the attestation of the keepers of the native records, be signed by the collector.—Reg. XXXVII., 1793, sec. xxxiv.; Reg. XLII., 1795, sec. xxxiv.; Reg. XXXVI., 1803, sec. xxxiv.

184. If the proprietary right in any land included in a badshahi grant shall be under litigation in a Court of Justice at the time of forming the first or any subsequent periodical register, the party in possession is to be registered as the proprietor.—Reg. XXXVII., 1793, sec. xxxv.; Reg. XLII., 1795, sec. xxxv.; Reg. XXXVI., 1803, sec. xxxv.

185. If a collector shall have occasion to require from the holder of a grant any information that may be necessary to enable him to form a periodical register, or to make the requisite entries in the register of intermediate resumptions and occurrences, and such person shall omit to furnish it by the time required, after having been served by the collector with a written requisition for that purpose under his official seal and signature, the collector is to report the circumstances to the Board of Revenue, who are empowered to impose on such person whatever daily fine may appear to them proper, on a consideration of his situation and circumstances in life and of the case, until he shall furnish the information required, unless he shall prove, to the satisfaction of the Board, that it was not in his power to furnish it. The collector is to levy the amount of such fines by the process to which he is authorized to have recourse for the recovery of arrears of revenue. The Board of Revenue are to furnish the collectors in the several zillahs with such records or information as they may possess regarding the exempted lands in their respective zillahs, as well to assist them in preparing the first periodical register, and in detecting frauds that may be attempted to be practised upon them in registering the grants, as to aid them in ascertaining what lands, now held exempt from the payment of revenue under grants, are liable to the payment of revenue according to this Regulation.—Reg. XXXVII., 1793, sec. xxxvi.; Reg. XLII., 1795, sec. xxxvi.; Reg. XXXVI., 1803, sec. xxxvi.

186. The collectors of the several zillahs are to transmit to the Board of Revenue, as early as may be practicable, an attested copy of the periodical registers, both in the English and the native

languages, each in a book of the prescribed size, paged and attested by the judge of the Dewanny Adawlut of the zillah, in the same manner as the original register, as directed in paragraph 173; and within one month after the expiration of the third, sixth, ninth, and twelfth month of the Bengal, Fusly, and Willaity, year (according to the era current in their respective districts), an attested copy of the entries in the register of intermediate resumptions and occurrences that may have taken place during the three preceding months. Whenever the Zillah and City Courts of Dewanny Adawlut may have occasion to refer to any of the registers herein prescribed, they are authorized to require from the collectors the production of the original register, or an attested copy of such part thereof as may contain the required information. The collectors, on the receipt of such requisition, are immediately to transmit the original register, if it can be sent without inconvenience, under the care of one of their native officers, in whose custody it is to remain till returned; or if the original register cannot be conveniently sent, are to transmit without delay an accurate copy of such part thereof as may be required, under the attestation of their official signature. In like manner, the Board of Revenue, on the requisition of the Court of Sudder Dewanny Adawlut, are to furnish any zillah register received by them which may be required by that Court; or a copy, attested by the signature of their secretary or accountant, of any part thereof which may be required. In the event of any register required by a Court of Justice not having been prepared, and the period fixed for its preparation having elapsed, the collector is to explain to the Court the cause of such register not having been prepared, and the explanation so given is to be transmitted by the Court receiving it to the Governor-General in Council. Any person succeeding to the office of collector, or invested with the temporary charge of such office, is also required, immediately on his taking charge, to ascertain whether the prescribed registers have been duly prepared; and if not, to report the same to the Board of Revenue, with any explanation he may have received of the omission, for the information of the Governor-General in Council.—Reg. XXXVII., 1793, sec. xxxvii.; Reg. XLII., 1795, sec. xxxvii.; Reg. VIII., 1800, sec. xv.; Reg. XXXVI., 1803, sec. xxxvii.

187. The copies of the registers which the collectors of Bengal, Behar, Orissa, and Benares, are required by the preceding paragraph to furnish to the Board of Revenue, shall be transmitted by the collectors at the periods therein specified, in the English and Persian languages, to the accountant of the Board of Revenue, who is to report to the Board any instances of the prescribed quarterly copies not having been received at the fixed periods, or of the quinquennial copies not having been received within the year at the commencement of which the quinquennial registers are directed to be prepared; and is to return to the collectors, for correction, any copies of registers received from them which may not have been prepared according to the prescribed form.—Reg. VIII., 1800, part of sec. xv. (NOTE. —*The preceding paragraph was not embodied in the Regulation for the Ceded Provinces.*)

188. The Board of Revenue and the collectors, are enjoined to be particularly attentive to the preservation of the periodical registers and registers of intermediate resumptions and occurrences, both in the English and native languages; and they are directed to have the fair copies of each, which are to be deposited amongst the public records, bound up with such materials as may be best calculated to prevent their being destroyed by insects, or otherwise.—Reg. XXXVII., 1793, sec. xxxviii.; Reg. XLII., 1795, sec. xxxviii.; Reg. VIII., 1800, sec. xv.; Reg. XXXVI., 1803, sec. xxxviii.

189. The periodical register which is to be formed in each of the zillahs at the commencement of the Bengal, Fusly, and Willaity year 1207, and at the commencement of every succeeding five years, is to be prepared from the preceding periodical register, and the entries in the subsequent register of intermediate resumptions and occurrences, with the omission of any grants of land that may have been resumed and subjected to the payment of revenue during the preceding five years, or that may have been transferred to the jurisdiction of another zillah, and with the addition of any grants of land that may have been annexed to the zillah, or that may have been admitted upon the register by the Governor-General in Council, under paragraph 168; also new grants made by the Governor-General in Council, and lands which any person may be adjudged entitled to hold exempted from the payment of revenue under a badshahi grant, by a final decree of a Court of Judicature in a suit instituted under these rules. The materials for each periodical register will thus be ready upon the arrival of the period for preparing it, and the register will be completed by the mere transcript of them into the book, arranged according to the prescribed form.—Reg. XXXVII., 1793, sec. xxxix.; Reg. XLII., 1795, sec. xxxix.; Reg. XXXVI., 1803, sec. xxxix. (NOTE.—*The latter rule substitutes Fusly, 1215, for the words underlined.*)

190. The judges of the Zillah and City Courts in the four provinces shall furnish the collectors of the districts in which the land may be situated, and the Board of Revenue, with a copy of every decree in suits between individuals which they may pass, or which may be sent to them by superior Courts to enforce, by which the right in, or possession of, any lands held exempt from the payment of public revenue, under whatever description of grant the same may be so held, may be affected, in order that the collectors may be enabled to make the necessary entries of the alterations in such right or possession to be inserted in the quinquennial registers of lands held exempt from the payment

of revenue. The copies of such decrees shall be transmitted by the judge within twenty days after the same may be passed or received by him.—Reg. LVIII., 1795, sec. iii.; Reg. XXXVI., 1803, sec. xliii. (NOTE.—*See post, sec. xi., Reg. III.*, 1828, *paragraph* 328.)

191. If it shall be proved, to the satisfaction of the judge of the Dewanny Adawlut of any zillah, that a native officer of a collector, or of an assistant to a collector, shall have received, directly or indirectly, any sum of money, or effects or other property, from any person for registering a grant under these rules, or on account of any matter relating to the registry thereof, the Court shall adjudge him dismissed from his office, and compel him to repay the money proved to have been taken, with a fine of three times the amount to Government and costs to the party suing him, and commit him to prison until he shall have discharged the amount of the decree, or it shall have been made good by the sale of his property.—Reg. XXXVII., 1793, sec. xl.; Reg. XLII., 1795, sec. xl.; Reg. XXXVI., 1803, sec. xl.

192. If any native servant or dependent of a collector, or of an assistant to a collector, not being a public officer, shall be convicted before the Court of Dewanny Adawlut of the offence specified in the preceding paragraph, he shall be compelled to restore the money to the person from whom it may have been taken, and to pay a fine of three times the amount to Government, with costs to the party suing, and be confined for six months; and if he shall not discharge the amount of the decree by the expiration of the sixth month, he shall be confined until he makes good the amount, or it shall be realized from the sale of his property; and the collector or assistant is to discharge such servant, and never to employ him in his public or private capacity.—Reg. XXXVII., 1793, sec. xli.; Reg. XLII., 1795, sec. xli.; Reg. XXXVI., 1803, sec. xli.

193. No part of these rules is to be considered to extend to lands held, or stated to be held, exempt from the payment of public revenue under grants not being of the description of those termed badshahi, or royal. The rules applicable to such grants are contained in Regulation XIX., 1793.—Reg. XXXVII., 1793, sec. xlii.; Reg. XLII., 1795, sec. xlii., cl. 1; Reg. XXXVI., 1803, sec. xlii.

194. Nor to any of the peshkushy mehauls specified in Section XVII., Regulation II., 1795 ("SETTLEMENT," paragraph 128).—Reg. XLII., 1795, sec. xlii., cl. 2.

NOTE.—In addition to the preceding rules for the Registry of La-khiraj, the rules in Sections XVII., XVIII., and XXI., Regulation VIII., 1800 ("REGISTRY OF ESTATES," paragraphs 61, 62, 63), are also applicable, so far as relates to the Lower Provinces and Benares; these rules, not having been incorporated in the Regulations for the Ceded Provinces, are not applicable to those Provinces. The rules for the Pergunnah Register of Malguzary and La-khiraj will be found under "REGISTRY OF ESTATES," commencing with paragraph 48.

## MOCURREREE AND ISTIMRAREE GRANTS IN THE CEDED AND CONQUERED PROVINCES.

195. On the death of any person holding lands in the Ceded and Conquered Provinces, or in Bundlecund, on a mocurreree or istimrar tenure granted by the native governments, it shall be the duty of the collector of the zillah in which the lands are situated to proceed to the assessment thereof, under such instructions as he shall receive from the Board of Revenue on the subject, and that Board shall apply to the Governor-General in Council for special orders, in any case which may appear to call for a deviation from the established rules prescribed for the public assessment; in order, that if the Governor-General in Council shall in any case see grounds for granting any abatement from the jumma, which on that principle would be assessed on the lands, he may take the subject into his consideration, and may allow such reduction of the jumma as may be deemed proper.—Reg. I., 1815, sec. ii.

196. No Court of Justice shall on any account take cognizance of the question of resumption of grants of the nature described in the preceding paragraph on the death of the holder, nor of the assessment of the lands consequent thereto. The adjudication of all claims on these accounts shall rest definitively with the revenue authorities, subject only to the approval of the Governor-General in Council.—Reg. I., 1815, sec. iii.

197. Nothing contained in the preceding paragraph shall be construed to preclude the Courts of Justice from receiving, hearing, trying, and deciding on claims to the actual property in the lands situated within a mocurreree or istimrar, as well as to all or any of the rights, privileges, or advantages annexed to such property by the existing laws or established usages of the country.—Reg. I., 1815, sec. iv.

198. Nothing herein contained shall be considered to deprive the revenue officers of the right to resume, as heretofore, any mocurreree tenure proved to be illegal or invalid, during the life of the present incumbent.—Reg. I., 1815, sec. v.

199. All such mocurreree or istimrar having been declared to be life tenures only, the Courts of Judicature are hereby further prohibited from taking cognizance of any claim to hold any land at a mocurreree or istimrar rent, by virtue of any grant, the possessor of which may have died at any time subsequent to the cession or conquest.—Reg. I., 1815, sec. vi.

## INVESTIGATION AND ASSESSMENT OF LA-KHIRAJ AND UNASSESSED LANDS BY THE REVENUE AUTHORITIES.

200. It is hereby declared and enacted, that all lands which, at the period of the decennial settlement, were not included within the limits of any pergunnah, mouza, or other division of estates for which a settlement was concluded with the owners, not being lands for which a distinct settlement may have been made since the period above referred to, nor lands held free of assessment under a valid and legal title of the nature specified in Regulations XIX. and XXXVII., 1793, and in the corresponding Regulations subsequently enacted, are and shall be considered liable to assessment in the same manner as other unsettled mehauls, and the revenue assessed on all such lands, whether exceeding one hundred begahs or otherwise, shall belong to Government; provided, however, that nothing in the above rule shall be construed to affect the rights reserved to zemindars, talookdars, and other proprietors of estates, with whom a permanent settlement has been concluded, to the exclusive enjoyment of the rent assessed on lands held on an invalid tenure, free of assessment, within the limits of their respective estates and talooks, and of which the extent may not exceed one hundred begahs if in Bengal, Behar, or Orissa, and fifty begahs if within the province of Benares.—Reg. II., 1819, sec. iii, cl. 1.

201. The foregoing principles shall be deemed applicable not only to tracts of land, such as are described to have been brought into cultivation in the Sunderbuns, but to all churs and islands formed since the period of the decennial settlement, and generally to all lands gained by alluvion or dereliction since that period, whether from an introcession of the sea, an alteration in the course of rivers, or the gradual accession of soil on their banks.—Reg. II., 1819, sec. iii., cl. 2.

202. The same principle shall likewise be deemed applicable to all lands which, though included at the period of the permanent settlement within the limits of talooks held by individuals under special pottahs from the collector, such as the putteetabady and jungulboory talooks in the districts of the Twenty-four Pergunnahs and Jessore, may not have been permanently assessed at the above-mentioned period; provided, however, that in respect to such lands, if in the possession of the original pottah-holder, or his legal representative, the conditions of the pottah in regard to the assessment of the land included within the limits specified in that instrument shall be strictly maintained.—Reg. II., 1819, sec. iii., cl. 3.

203. The several rules prescribed in Regulations XIX. and XXXVII. of 1793; and Regulations XLI. and XLII. of 1795; Regulations XXXI. and XXXVI. of 1803; Regulations VIII. and XII. of 1805; for determining the validity of grants for holding lands exempt from the payment of public revenue, are hereby declared applicable to grants for holding lands under mocurrery or other tenures limiting the demand of Government; provided, however, that nothing in this paragraph shall be construed to affect the rules contained in Regulation VIII., 1793 ("SETTLEMENT"), relative to the assessment of lands held under valid grants, or leases, of the above nature, nor to alter the provisions contained in paragraphs 195 to 199, by which tenures of that description are declared liable to assessment on the death of the grantee.—Reg. II., 1819, sec. iv.

NOTE.—The provisions of the following paragraphs are modified, so far as they relate to the special powers of collectors revising settlements, by paragraphs 265 to 276, and the collectors are empowered, by paragraph 307, in those districts in which special commissioners have been appointed under Regulation III., 1828, to institute the inquiries herein directed, without previously applying for the sanction of the Board of Revenue.

204. Whenever a collector of revenue, or other officer exercising the powers of collector, shall have reason to believe that any lands lying within the sphere of his official control are liable to assessment, either as being held under an invalid tenure free of assessment, or at an inadequate jumma, or as being liable to assessment on the principles stated in paragraphs 200 to 202, he shall report the circumstances to the Board of Revenue, or other authority exercising the powers of that Board, who, should they be of opinion that proper grounds exist for inquiry, shall direct the collector or other officer aforesaid to enter on an investigation of the case in the manner hereafter mentioned.—Reg. II., 1819, sec. v., cl. 1.

205. The collector, on receiving the authority of the Board of Revenue, shall call the party before him by a notice, stating the demand of Government on the lands, and requiring him to attend either in person or by vakeel within the period of one month, and to produce all sunnuds, or other writings, in virtue of which he may possess the lands, or under which they may have been or may be claimed to be held free of assessment, or at a fixed jumma.—Reg. II., 1819, sec. v., cl. 2.

206. If the persons whose lands it is proposed to assess have an accredited agent at the sudder station, with general powers to act for his principal, the notice to be issued under the preceding paragraph shall be tendered to such agent, to be communicated by him to his principal, and the agent's acknowledgment to be endorsed upon it shall be accepted as a sufficient service of it, if he be desirous of giving such acknowledgment in preference to the notice being served on the person of his principal by a chupprassy, or peon of the collector.—Reg. II., 1819, sec. v., cl. 3.

207. If the person, the revenue of whose lands it is proposed to resume, shall not have an accredited agent at the sudder station of the description above mentioned, or if such agent shall decline receiving the notice for communication to his constituent, and the defendant be resident within the collectorship, it shall be served on him through the nazir of the collector by a single chupprassy or peon, who shall require the acknowledgment of the party to be endorsed upon it, or if he be absent from his usual place of residence, the acknowledgment of his principal agent, or of any person acting for him during his absence. If the party be resident within the jurisdiction of any other collectorship than that in which the lands proposed to be assessed are situated, the notice shall be transmitted to the collector of the district in which the party may reside, to be served in the manner above directed. If the party be neither resident within the collectorship in which the lands in question may be situated, nor in any other collectorship, the notice shall be served upon his agent or representative in charge of the lands.—Reg. II., 1819, sec. v., cl. 4.

208. Provided always, that if any party or his agent in charge of his land, on whom a notice may be served in the manner above prescribed, shall refuse to acknowledge the receipt of it when required by the person serving it, the tender of the notice to such party or his agent shall be taken for a sufficient service; such tender to be proved by the evidence of two persons residing on the lands, or in the nearest village.—Reg. II., 1819, sec. v., cl. 5.

209. The collector shall, in the notice summoning the party, warn him, that if he withhold any writings of the nature specified in paragraph 205, within the period prescribed, they will not afterwards be received, unless he shall show good and sufficient cause for not producing them, and shall assign such cause on his appearing before him.—Reg. II., 1819, sec. v., cl. 6.

210. If the holder of such lands to whom a notice may have been issued, as directed in paragraphs 204 to 209, shall abscond, or if not, after diligent search, to be found, or shall shut himself up in any house or building, or retire to any place, so that the notice cannot be served upon him, the collector, or other officer exercising the power of collector, on receiving the nazir's return to this effect, shall issue a proclamation, to be affixed in some conspicuous part of his cutcherry. The proclamation shall be written in the Persian and Bengal languages in the provinces of Bengal and Orissa (including Cuttack); in the Persian language and character, and in the Hindoostanee language and Nageree character, in Behar, Benares, and in the Ceded and Conquered Provinces; and it shall contain a copy of the former notice, and a further notification to the party, that if he shall not appear on a day to be fixed (which shall not be less than fifteen days from the time that the proclamation may be fixed up), the collector will proceed, without further notice, to hold the inquiry ex parte. The collector, or other officer exercising the power of collector, shall likewise order a copy of the proclamation and notice to be fixed up, with all practicable dispatch, on the outer door of the house in which the holder of the lands may have usually dwelt, or in some conspicuous place in the chief village within, or in the neighbourhood of, the lands proposed to be assessed.—Reg. II., 1819, sec. vi., cl. 1.

211. The nazir shall return the order with an endorsement, stating at what times and places the proclamation may have been fixed up. The return of the nazir shall be filed with the collector's proceedings in the case. If the party shall not appear at the time limited in the proclamation, or if a party who may have been served with a notice shall not appear within the time therein limited, or if, having appeared, he shall refuse to give answer, the collector shall proceed to investigate and decide upon the case in the same manner as if the party had appeared, answered, and entered into proof.—Reg. II., 1819, sec. vi., cl. 2.

212. In cases of land supposed to be liable to assessment under the provisions of paragraphs 200 to 202, the collector, or other officer exercising the powers of collector, shall institute a full and particular inquiry into the circumstances and condition of the land in question at the period of the decennial settlement; and in cases of alluvion land, into the period of its formation.—Reg. II., 1819, sec. vii.

213. When an inquiry in regard to land of the nature of that described in the foregoing paragraph shall have been authorized, it shall be competent to the collector, with the sanction of the Board of Revenue, or other authority exercising the powers of that Board, previously obtained, to cause a survey or measurement to be made of all such lands, and of the estate to which such lands may be alleged to belong.—Reg. II., 1819, sec. viii.

214. It shall likewise be competent to the collector, in all cases of inquiry held under the provisions of this Regulation, to summon the putwarry, gomashtah, or other person by whom the accounts relating to the lands proposed to be assessed, or to the estate to which the lands may be alleged to belong, are kept, and to require him to produce all accounts relating to such lands or estate, and to examine him on oath or affirmation to the truth of such accounts, and on any other matter relating to such accounts, or regarding such lands or estate, in the manner specified in Section XXII., Regulation XII. of 1817.—Reg. II., 1819, sec. ix.

215. It shall be further competent to the collector in such cases, with the sanction of the Board of Revenue, or other authority exercising the powers of that Board, to require the person claiming to

be proprietor or farmer of the lands proposed to be assessed, or of the estates to which they are alleged to belong, to attend either in person or by representative, and to produce all the accounts relating to such lands or estate within a reasonable period, not being less than one week.—Reg. II., 1819, sec. x.

216. Whenever the collector, or person exercising the powers of collector, shall require the attendance of any proprietor or farmer, or of any putwarry or gomashtah, or other officer, for the purpose stated in the preceding paragraphs, he is to serve such proprietor, or other person as aforesaid, with a written notice under his official seal and signature, stating the purpose for which his attendance is required, the papers (if any) which he is to bring with him, and the period within which he is to attend.—Reg. II., 1819, sec. xi., cl. 1.

217. Provided, further, that the rules contained in Section III., Regulation XIV., 1793 ("Realization of Revenue," paragraph 40), regarding the mode of serving process for the recovery of arrears of revenue, shall be held applicable to processes issued by a collector, or other officer exercising the powers of a collector, under the provisions contained in paragraphs 214 and 215, excepting always so much of the said rules as prescribes that the peon serving the summons shall be paid by the party in whose name it is issued.—Reg. II., 1819, sec. xi., cl. 2.

218. If any putwarry, gomashtah, or other person by whom the accounts of lands are kept, and who may be summoned by a collector or commissioner, under the provisions contained in paragraphs 214, 216, and 217, shall neglect or omit to produce his original accounts on the requisition of the collector or commissioner, or to give his evidence regarding them, or shall intentionally and deliberately give a false deposition on oath or affirmation before the collector or commissioner, when summoned and examined as aforesaid, or shall alter, fabricate, falsify, or mutilate the accounts relating to such lands, or to the estate to which such lands are stated to belong, shall be and be held liable to the pains and penalties specified in Sections XXIII., XXVI., and XXVII. of Regulation XII., 1817, according as the provisions of one or other of those sections may be applicable to the offence committed by him.—Reg. II., 1819, sec. xii.

219. If the holder of any lands, in regard to which the collector shall have been authorized by the Board of Revenue, or other authority exercising the powers of that Board, to institute the inquiry described by paragraph 212, shall refuse or neglect to furnish the accounts relating to such lands within the period specified in the collector's requisition, the Board of Revenue, or other authority exercising the powers of that Board, shall be competent to direct the lands to be immediately attached, and the rents collected on account of Government, in the same manner as if the lands were the property of Government. In such cases, however, it shall still be the duty of the collector to make a full inquiry into the title of the holder of the lands, and to transmit his proceedings to the Board, who will decide whether the lands shall be deemed permanently liable to assessment.—Reg. II., 1819, sec. xiii., cl. 1.

220. Provided further, that if the holder of any lands assessed under these rules shall institute a suit in Court to contest the decision of the revenue authorities, and shall produce any accounts or documents beside such as he may have delivered to the collector, the accounts or documents so produced shall not be received by the Court in evidence, nor shall they have any weight in the decision, any more than if they had never existed, unless he shall show good cause, to the satisfaction of the Court, for not having produced the said accounts or documents, and shall prove that he assigned such cause in answer to the collector's requisition, or show good cause for not having done so.—Reg. II., 1819, sec. xiii., cl. 2.

221. Provided also, that if any proprietor or farmer shall omit, or refuse to attend, or to cause his officer or agent to attend when duly summoned by the collector or commissioner, by the time prescribed in the notice issued by the collector or commissioner, or shall omit or refuse to furnish the accounts or documents required, and to show sufficient cause for such omission, the collector or commissioner is authorized and empowered to impose upon him such daily fine, to be payable daily, until he complies with the requisition, as the collector or commissioner may think adequate to his situation and circumstances in life; reporting, however, the amount for the information of the Governor-General in Council. The fine is to levied by the same process as is prescribed for the recovery of arrears of revenue.—Reg. II., 1819, sec. xiii., cl. 3; Act XX., 1848.

222. If any zemindar or other person shall resist, or cause to be resisted, the attachment or measurement of lands, which the Board of Revenue, or other authority exercising the powers of that Board, shall have authorized the collector or commissioner to attach or measure, under the provisions of this Regulation, or shall resist, or cause to be resisted, any process duly issued by the collector or commissioner, to compel a putwarry, gomashtah, or other officer, to produce his accounts, and to give his evidence respecting them under the provisions contained in paragraph 214, it shall be competent to the Board of Revenue, or other authority exercising the powers of that Board, on being satisfied that he is guilty of the charge, to adjudge the zemindar, or other person so offending, to pay such fine to Government as may appear to it proper, upon a consideration of his situation and circumstances in life, and of the offence which he may have committed, and to levy the

fine in the mode prescribed for the recovery of arrears of revenue; provided, however, that if the fine shall exceed five hundred rupees, the Board shall submit a report of the case to the Governor-General in Council, and shall not proceed to levy the fine until they shall receive authority from Government for that purpose.—Reg. II., 1819, sec. xiv.

223. When the party whose lands it may be proposed to assess shall appear in conformity with the notice or summons, and shall deliver up his title-deeds, the collector shall give a receipt for them, and after duly examining them, shall deliver to the party a statement of the grounds on which his land may appear liable to assessment, with copies, on plain paper, of all documents on which his opinion may be founded. The collector shall then desire the party to deliver a written answer within seven days.—Reg. II., 1819, sec. xv.

224. It shall be the duty of the collector, or other officer exercising the powers of collector, carefully to number, mark, date, and sign all documents produced by a zemindar, or other person in possession of the lands proposed to be assessed, in support of his claim, to hold them free of assessment, or as parcel of an estate for which a permanent settlement shall have been concluded, and to insert in his proceedings the title and number of such documents, so that no doubt may exist in regard to their having been exhibited before him; and the collector shall, before proceeding to judgment, warn the party that no accounts or other documentary evidence of any kind which he shall not produce before him, and for not producing which he may not assign good and sufficient cause, will be received at any future period, either by the revenue or judicial authorities, and shall record his having done so on the face of his proceedings.—Reg. II., 1819, sec. xvi.

225. On receiving the answer of the party, the collector shall summon any witnesses he may deem necessary to support the claim of Government, with any which the party may desire to have summoned on his behalf, and shall take their depositions in judicial form, and in the presence of the party or his authorized agent.—Reg. II., 1819, sec. xvii.

226. The collector shall carefully examine all documents that may be produced by the party, and shall likewise give the party access to inspect all documents on which he may rely in proof of the liability of the land to assessment.—Reg. II., 1819, sec. xviii.

227. The collectors, and other officers exercising the powers of collectors, are hereby authorized to summon witnesses and administer oaths, or cause the execution of solemn declarations in lieu thereof, in all cases brought before them under these rules; provided that if any witness shall refuse to take the oath or affirmation required from him, he shall be sent to the judge of the Zillah or City Court, to be confined, as prescribed by the Regulations in similar cases.—Reg. II., 1819, sec. xix., cl. 1.

228. Any person giving intentionally and deliberately a false deposition on oath, or under a solemn declaration taken instead of an oath, relative to any proceeding depending before a collector, or other officer exercising the power of collector, under these rules, and upon a point material to the issue thereof, shall be held and considered guilty of perjury, and shall be liable to the penalties prescribed for that offence in the Regulations; and any person causing or procuring another person to commit the offence of perjury, as above described, is declared guilty of subornation of perjury, and punishable under the provisions of the said Regulations.—Reg. II., 1819, sec. xix., cl. 2.

229. Persons resisting any process issued by the collector, or other officer exercising the power of collector, in any case depending before him under these rules, shall, in addition to the penalty prescribed in this, and the two preceding paragraphs, be liable to the penalties prescribed for cases of resistance to the process of a collector in Regulation XIV., 1793, Regulation VI., 1795, and Regulation XXVII., 1803 ("Realization of Revenue"), under the provisions therein specified. —Reg. II., 1819, sec. xix., cl. 3.

230. Having closed his proceedings, the collector shall record his opinion in a roobakarry, detailing the grounds on which it is founded, and whether the lands appear liable to assessment or otherwise, and shall forward his proceedings to the Board of Revenue, or other authority exercising the powers of that Board, in such mode as may be directed by that authority, furnishing the party at the same time with a copy on plain paper of the final roobakarry aforesaid, and reporting his having done so to the Board, or other authority aforesaid.—Reg. II., 1819, sec. xx.

231. The Board of Revenue, or other authority aforesaid, after calling for any further evidence which, on a consideration of the collector's proceedings, they may deem wanting, shall on a day to be fixed by a public notice affixed in the office, not being less than six weeks from the date on which the collector may have furnished the party with a copy of his final roobakarry, and after hearing anything which the party, if in attendance, may wish to urge in his own behalf, proceed to pass judgment in the case, and shall record their opinion in a Persian roobakarry, delivering a copy thereof to the party, on his requisition to that effect.—Reg. II., 1819, sec. xxi., cl. 1.

232. The final roobakarries, which the collectors and the Boards are by the provisions of paragraphs 231 to 234 directed to record, shall contain a distinct statement of the subject-matter of the case, the grounds on which the decision may be given, the names of the witnesses whose depositions may have been taken, and the title of every exhibit read.—Reg. II., 1819, sec. xxi., cl. 2.

233. If the Board of Revenue, or other authority aforesaid, pronounce against the assessment, the proceedings shall be considered final, except on proof in a Court of Judicature of fraud or collusion in the previous inquiry.—Reg. II., 1819, sec. xx ,cl. 3.

234. In the event of the Board's declaring the lands liable to assessment, the collector shall inform the party or his vakeel of the decision of the Board, and shall proceed to ascertain the limits of the land, and shall fix an assessment on the principles of the general Regulations on such information as may be procurable.—Reg. II., 1819, sec. xxi., cl. 4.

NOTE.—The provisions of the six following paragraphs would seem to be entirely superseded by paragraphs 325 to 329. As, however, those rules are declared to be in "modification" only, it has been deemed advisable to retain these in italics.

235. *If the party shall, within a fortnight of his receiving intimation of the Board's decision, tender to the collector responsible security for the payment, from that date, of the jumma which may eventually be fixed on the land, with interest at the rate of twelve per cent., and shall engage to institute a suit in the Court in which the case may be cognizable within ten days, commencing from the date of the deed of security, or (if the Court shall be shut, and shall not be opened until after the expiration of such ten days) within three days, calculating from the day on which it may be opened, to try the justness of the demand, the collector shall leave the party in possession as before, reporting the circumstance for the information of the Board; provided, however, that in such cases the party shall produce all his accounts of collections for the information of the collector, in estimating the amount of the security to be required.*—Reg. II., 1819, sec. xxii., cl. 1.

236. *If the party be willing to give security for a portion only of the jumma eventually assessable on the land, it shall be competent to him to do so on the conditions above specified. In this case the collector shall, under the orders of the Board, either hold the lands khas or farm them, for such period as the Board may direct, and shall pay to the party a portion of the collections proportionate to the amount for which he may be willing and able to give responsible security.*—Reg. II., 1819, sec. xxii., cl. 2.

237. *It shall be competent to the Court to direct the collector to take the security offered by the party, if he shall refuse to do so, and the Court shall be satisfied that it is sufficient; but it shall rest with the collector, subject to the directions of the Board, to fix the amount for which the surety is to be held bound.*—Reg. II., 1819, sec. xxii., cl. 3.

238. *The amount shall not, in the first instance, exceed the estimated annual revenue assessable on the lands, or the amount receivable by the party in one year, with interest; but if at the expiration of one year from the date on which the party may receive intimation of the Board's decision, the suit shall still be pending, it shall be competent to the collector to require additional security for the same amount.*—Reg. II., 1819, sec. xxii., cl. 4.

239. *In mocurrerees the parties giving security, and intending to sue, shall continue to pay the mocurreree jumma, and will be required to give security for the remaining revenue which may be eventually demandable from them.*—Reg. II., 1819, sec. xxii., cl. 5.

240. *If the party neglect to sue, the collector shall proceed to the final assessment of the land.*—Reg. II., 1819, sec. xxiii.

241. Persons whose lands may be assessed, *either in failure to give security, or to institute a suit within the prescribed time,* shall nevertheless be entitled to sue any time, within one year from the date of their being informed of the Board's decision; but after the above period shall have elapsed, the decision of the Board shall be final and conclusive; provided, however, that in cases in which the party may be able to show good and sufficient cause for not having sued within the said period, such as minority or absence, no limitation as to time shall prevail other than that generally prescribed by the existing Regulations in regard to private claims.—Reg. II., 1819, sec. xxiv., cl. 1.

242. Provided also, that in cases in which the Board of Revenue, or other authority exercising the powers of that Board, may have directed the resumption of lands held free of assessment under the powers vested in them, if the parties whose lands have been assessed shall be able to show good and sufficient cause for not having instituted a suit to try the merits of the Board's decision, within the period prescribed by those Regulations, they shall in like manner be subject only to such limitation in respect to time as is prescribed generally in regard to private claims.—Reg. II., 1819, sec. xxiv., cl. 2. (NOTE.—*See post, paragraph* 327.)

243 In cases instituted in the Zillah Court, if that Court maintains the decision of the Revenue authorities, and if the sum in contest shall be less than ten thousand rupees, a special appeal shall lie to the Court of Sudder Dewanny Adawlut on special grounds only; but in cases in which a Zillah Court shall annul or alter a judgment passed by the Board of Revenue, or other authority exercising the powers of that Board, or when the amount in contest shall exceed the sum of ten thousand rupees, a regular appeal shall lie to the Court of Sudder Dewanny Adawlut.—Reg. II., 1819, sec. xxvi., cl. 1; Reg. XIV., 1825, sec. vi.

244. Provided also, that the provisions contained in Section II., Regulation XXVI. of 1814,

shall not be applicable to such appeals, but the Sudder Dewanny Adawlut, in all cases of special appeal being preferred in conformity with the provisions of this Regulation, shall, together with the decree against which such appeal may be lodged, likewise peruse the final roobakary filed in the case by the Board of Revenue, or other authority exercising the powers of that Board; and if, on a consideration of those documents, the decision of the Court should appear unjust, or erroneous, or doubtful, or its proceedings in the case manifestly irregular or imperfect; or if, from the nature of the cause, as stated in the decree or otherwise, it shall appear to them of sufficient importance to merit a further investigation in appeal, they shall admit a special appeal.—Reg. II., 1819, sec. xxvi., cl. 2.

245. In cases in which parties whose lands the revenue authorities may adjudge liable to assessment shall bring a suit to contest the decision, in the manner prescribed in paragraphs 235 to 239, the petition of plaint shall be received on stamped paper of the value of one rupee; provided, however, that if the suit be decided in favour of Government, the plaintiff shall be answerable for the amount of the stamp-duty which he would have had to pay under the ordinary rules regarding civil suits in lieu of the institution-fee, unless the Court shall decide that there was a fair ground for contesting the decision of the Board.—Reg. II., 1819, sec. xxvii.

246. On the production of any written document purporting to be a firmaun of any king of Delhi, or to be a sunnud, purwanna, or other grant of any vizier, or of any nawaub, rajah, or other potentate or person formerly exercising authority in any part of the provinces and territories now subject to the British Government, it shall be the duty of the revenue and judicial authorities before whom such document may be produced, to ascertain the validity and authenticity of it, by reference to such offices and records, and by the examination of such living witnesses as may be likely to lead to the due appreciation thereof; and the said authorities shall not receive such document in evidence merely on the credit of the seal or other attestations impressed upon it, without some external evidence in corroboration of its authenticity.—Reg. II., 1819, sec. xxviii., cl. 1.

247. Provided also, that no document of the above description, which may be produced to any Court or Adawlut, shall be received, nor any proceedings held thereon, nor any faith given thereto, unless it shall be proved that the said document has been duly registered under the rules and requisitions of Regulations XIX. and XXXVII., 1793; XLI. and XLII., 1795; VIII., 1800; XXXI. and XXXVI., 1803; and VII., 1808; or unless due cause be shown for the non-registry.—Reg. II., 1819, sec. xxviii., cl. 2.

248. Whenever a collector, or other officer exercising the powers of collector, shall have reason to suspect the validity of the original tenure under which any land subsequently commuted for a money pension, of the description noticed in Regulation XXIV., 1803, and Regulation VI., 1817, was held, it shall be competent to him, with the previous sanction of the Board of Revenue, or other authority exercising the powers of that Board, to proceed in the investigation of the tenure under which such land was held, in the same manner as collectors are authorized by this Regulation to proceed in regard to the tenure of lands now held free of assessment; and if the Board shall be of opinion that the tenure was invalid, it shall be competent to them to resume the money pension granted in consideration thereof, subject to an appeal to the Courts of Judicature, in the manner prescribed by this Regulation, in cases in which the Board may direct the assessment of land held free of assessment; provided, however, that it shall not be competent to the revenue authorities to resume any money pension of the above description, of which the incumbent may have been in the enjoyment, under orders of the Governor-General in Council, for a period of twelve years or more.—Reg. II., 1819, sec. xxix.

249. All suits preferred in a Court of Judicature by proprietors, farmers, or talookdars, to the revenue of any land held free of assessment, as well as all suits so preferred by individuals claiming to hold lands exempt from revenue, shall, immediately on their institution, be referred for investigation to the collector, or other officer exercising the powers of collector; provided also, that proprietors, farmers, or talookdars, who may deem themselves entitled to the revenue of any land held free of assessment in their respective estates, talooks, or farms, or individuals claiming as aforesaid to hold lands free of assessment, shall be at liberty to prefer their claims in the first instance to the collector; provided, further, that the party so preferring his claim directly to the collector shall, in his petition to the collector, state the particulars of his claim, and the grounds on which it is founded, in like manner as if the suit were instituted in a Court of Judicature; and the petition shall be written on stamped paper of the value prescribed for petitions of plaint in suits instituted in those Courts.—Reg. II., 1819, sec. xxx., cl. 1.

250. Suits instituted under the preceding paragraph may, according to their amount, be referred for decision to the principal sudder ameens, sudder ameens, or moonsiffs.—Act XXV., 1837, sec. ii.; Act XXVI., 1852, sec. iv.

251. On receiving a petition of the above nature from any proprietor, farmer, or talookdar, claiming the revenue of any land held free of assessment in their respective estates, or on a reference being in such case made from a Court of Judicature, the collector shall serve on the defendant a

written notice, containing a short statement of the demand, and requiring the defendant to attend in person or by vakeel within the period of one month, and to produce all sunnuds or other documents in virtue of which he may possess the lands, and under which they may have been or may be claimed to be held free of assessment.—Reg. II., 1819, sec. xxx., cl. 2.

252. When the defendant shall appear and deliver up his title-deeds, the collector, after allowing the claimant to inspect and examine them, shall call upon him to deliver, within the period of seven days, a full statement of the grounds on which, with reference to the documents, he may consider the tenure of the defendant invalid, and the lands liable to assessment, with all documents on which his claim to the revenue of them may be founded.—Reg. II., 1819, sec. xxx., cl. 3.

253. When the claimant shall have delivered in the said statement and documents, the collector shall proceed to investigate the case, and to record his final judgment on it, in the same manner and with the same powers as in cases in which he may himself propose to assess lands on account of Government.—Reg. II., 1819, sec. xxx., cl. 4.

254. The parties shall respectively be subject to the same rules in regard to the use of stamped paper, on summoning witnesses and filing exhibits, as are prescribed for suits instituted in the Zillah or City Courts.—Reg. II., 1819, sec. xxx., cl. 5.

255. In cases in which Government may not be itself a party, and in which the suit may have been originally instituted in a Court of Judicature, the collector, on closing his proceedings, shall transmit them, with all documents therein referred to, to the Court by which the reference may have been made, recording his sentiments on the case as prescribed in paragraphs 230 to 234, and the Court shall proceed to decide the case, after calling for such further evidence as may appear necessary; provided, however, that no sunnuds, accounts, or other documentary evidence of any kind, which may not have been produced before the collector, and for not producing which the party may not have assigned a sufficient cause, shall be received by the Court.—Reg. II., 1819, sec. xxx., cl. 6.

256. In cases of the above description, which may have been preferred directly to the collector, if either of the parties shall be dissatisfied with the decision passed by that officer, he shall be at liberty to appeal to the Zillah or City Court by a petition written on stamped paper of the value of one rupee; provided, however, that no such appeal shall be received unless preferred within the period of three months from the date of the collector's decision, or on good and sufficient cause being shown for a further delay.—Reg. II., 1819, sec. xxx., cl. 7.

257. The judge, on receiving such petitition, shall require the collector to transmit all the proceedings held by him in the case with the documents therein referred to, and shall proceed to investigate and decide on the case in like manner as if it had been originally instituted in the Court, and referred by it to the collector.—Reg. II., 1819, sec. xxx., cl. 8.

258. In all cases in which Government may be the defendant, or in which the revenue of the lands claimed may form part of an estate liable to a variable assessment, the collector shall, on closing his proceedings, submit them to the Board of Revenue, or other authority exercising the powers of that Board, for their decision. In such cases, if the suit shall have been referred by a Court of Judicature, the collector shall postpone the transmission of his return to the reference, until he shall receive the orders of the Board or other authority aforesaid, and if the claim shall have been originally preferred to the collector, the Courts of Judicature shall not interfere until the decision of the Board shall have been passed; provided, however, that in all such cases the decision of the Board shall be recorded in a Persian roobakary, and transmitted to the collector in that form for the information of the parties; provided, further, that in cases in which the claim may have been originally preferred to the collector, the party, if dissatisfied with the decision of the Board, shall be at liberty to appeal to the Court by which the case may be cognizable, any time within the period of three months from the date on which the Board's decision may have been communicated to such party or to his vakeel, or, in their absence, from the date on which the roobakary containing the Board's decision may have been brought on the collector's record of the case.—Reg. II., 1819, sec. xxx., cl. 9.

259. If the party shall not apply to the Court within the said period, and shall fail to show good and sufficient cause for the delay, the decision of the revenue authorities shall be final, and shall, on application of the party in whose favour it may have been passed, be carried into effect by the Courts of Judicature, in the manner in which the decrees of Courts are executed.—Reg. II., 1819, sec. xxx., cl. 10.

260. Provided also, that in cases in which the right of resuming the revenue of lands held free of assessment, or of recovering possession under such a tenure of lands which may have been subjected to assessment, shall have been adjudged by the revenue authorities, the Courts shall in like manner carry the decision of the said authorities into immediate effect, notwithstanding the admission of an appeal therefrom, unless the party so applying shall give good and sufficient security for the payment of the mesne profits accruing from the lands under dispute.—Reg. II., 1819, sec. xxx., cl. 11.

261. In cases of the above description, which may be decided by the Courts of Judicature, in appeal from the decision of the revenue authorities, whether the claim be preferred in the first instance to the Court, or collector, a special appeal only shall be admitted by the Sudder Dewanny Adawlut, excepting always cases which, from their amount, may be appealable to the Queen in Council; provided also, that the rules contained in paragraphs 243 and 244 shall be applied to all appeals of the above nature.—Reg. II., 1819, sec. xxx., cl. 12; Reg. VII., 1832, sec. xiii.

262. Nothing herein contained shall be considered to affect the right of the proprietors of estates for which a permanent settlement has been concluded, to the full benefit of all waste lands included within the ascertained boundaries of such estates respectively, at the period of the decennial settlement, and which have since been or may hereafter be reduced to cultivation. The exclusive advantages resulting from the improvement of all such lands were guaranteed to the proprietors by the conditions of that settlement, and it being left to the Courts of Judicature to decide on all contested cases, whether lands assessed under the provisions of this Regulation were included at the period of the decennial settlement within the limits of estates for which a settlement has been concluded in perpetuity, and to reverse the decision of the revenue authorities in any case in which it shall appear that lands which actually formed, at the period in question, a component part of such an estate, have been unjustly subjected to assessment under the provisions of this Regulation, the zemindars and other proprietors of land will be enabled, by an application to the Courts, to obtain immediate redress in any case in which the revenue authorities shall violate or encroach on the rights secured to them by the permanent settlement.—Reg. II., 1819, sec. xxxi., cl. 1.

263. It is further hereby declared and enacted, that all claims by the revenue authorities on behalf of Government to additional revenue from lands which were at the period of the decennial settlement included within the limits of estates for which a permanent settlement has been concluded, whether on the plea of error or fraud, or on any pretext whatever, saving of course the case of lands expressly excluded from the operation of the settlement, such as la-khiraj and thannadary lands, shall be and be considered wholly illegal and invalid.—Reg. II., 1819, sec. xxxi. cl. 2.

## SPECIAL POWERS OF COLLECTORS MAKING OR REVISING SETTLEMENTS.

264. The following rules are enacted in modification of paragraphs 204 to 211, 213, 215 to 217, 219 to 221, 223, 235 to 239, 249, and 251 to 261.—Reg. IX., 1825, sec. v., cl. 1.

265. Whenever a collector, or other officer exercising the powers of collector, shall visit or be about to visit any mehaul for the purpose of making a settlement in the manner prescribed in Regulation VII., 1822 ("SETTLEMENT"), it shall be competent to him, by a notification to be stuck up in some conspicuous place within such mehaul, and each village thereof, if consisting of several villages, to require all persons holding lands free of assessment, or at a fixed jumma, within or adjoining to the village or villages in which the lands of such mehaul or any part thereof may be situate, to appear before him either in person or by vakeel within a reasonable time, not being less than one month from the date of such notification, at such place within the mehaul as he may select for holding his office, and to attend him from day to day while he may continue within the mehaul, with all sunnuds or other writings in virtue of which they may possess the lands, or under which the lands may have been or may be claimed to be held free of assessment or at a fixed jumma, together with any evidence they may desire to have taken in support of their claims.—Reg. IX., 1825, sec. v., cl. 2.

266. It shall likewise be competent to collectors and other officers aforesaid, when engaged in the settlement of any mehaul under the rules of the Regulation above mentioned, or preparatory thereto, to measure or cause to be measured, without a previous reference to the Board of Revenue, all lands, whether malguzary or la-khiraj, belonging or adjoining to the village or villages in which such mehaul or any part thereof may be situated.—Reg. IX., 1825, sec. v., cl. 3.

267. When the collector or other officer aforesaid shall have commenced the settlement of any mehaul, in regard to which he may have issued a notification as aforesaid, and shall propose to hear the claims of persons holding lands free of assessment or at a fixed jumma, and to receive their sunnuds and other writings as aforesaid, or any of them, the period fixed in the notification for the attendance of such parties being arrived, he shall, on the day preceding that on which he may intend to hold proceedings in the said cases or any of them, notify such intention by an ishtihar, stuck up in his office and in some place open to the public within the mehaul.—Reg. IX., 1825, sec. v., cl. 4.

268. If any person holding land free of assessment, or at a fixed jumma as aforesaid, shall fail to attend either in person or by vakeel, after notice being given in the manner above prescribed, the collector shall be competent to proceed ex parte to investigate the title of such party to hold the land in his possession free of assessment, and with the sanction of the Board of Revenue to resume the said lands, if they appear to be held on an invalid title. Nor shall any person defaulting as above, or neglecting to appear and give answer when required to do so, in the manner prescribed in Regula-

tion II., 1819, be entitled to stay the resumption and assessment of his lands under the rule contained in paragraphs 235 to 239. Provided further, that the rule contained in paragraph 220 shall be and be held applicable to such persons, as well as to persons who may appear when summoned under the provisions of that Regulation, or in the manner hereinbefore provided.—Reg. IX., 1825, sec. v., cl. 5.

269. It shall be competent to collectors, and other officers making settlements as aforesaid, either to complete the investigation of the claims of persons holding land free of assessment, or at a fixed jumma, under the rules of paragraphs 223 to 263, with the modifications hereinafter provided, during the progress of the settlement, or to limit their proceedings to the ascertainment of the land actually held under such tenures, and the record of the title-deeds produced by the parties, postponing the further investigation of the case to a future period. When any collector or other officer may postpone the investigation of any case as aforesaid, he shall at the same time notify to the party the time and place at which the further investigation is to be held, or if circumstances prevent him from doing so, he shall, before resuming the inquiry, give the party one month's notice to attend, and on the failure of any party to attend when so warned, the collector, or other officer aforesaid, shall be competent to proceed to try the case ex parte, and with the sanction of the Board to resume and assess the lands.—Reg. IX., 1825, sec. v., cl. 6.

270. Collectors or other officers who may proceed to investigate claims to la-khiraj lands during the progress of a settlement, shall follow the rules of paragraphs 223 to 263, in all cases wherein the parties may attend and deny the liability of their lands to assessment, subject to the modifications hereinafter provided.—Reg. IX., 1825, sec. v., cl. 7.

271. No lands shall be resumed by a collector, even though the parties may confess that they are liable to assessment, without the sanction of the Board of Revenue, save and except as hereinafter provided; but on such confession duly attested, which will of course supersede the necessity of any further inquiry, it shall be competent to the Board forthwith to direct the lands to be assessed, unless the same be held by village or zemindary servants in lieu of wages, which shall not be resumed without the sanction of Government. Provided also, that in all cases wherein it may appear to the Board that the resumption of lands held free of assessment would occasion serious distress to the holders, it shall be their duty to submit a report of the circumstances to the Governor-General in Council.—Reg. IX., 1825, sec. v., cl. 8.

272. The provisions of Clause First, Section XXIII., Section XXV., and Section XXVIII., Regulation VII., 1822 ("SETTLEMENT," paragraphs 392, 398, and 401), shall be applicable to cases investigated by collectors under the rules of Regulation II., 1819, or under these provisions.—Reg. IX., 1825, sec. v., cl. 9.

273. It shall not be necessary to use stamped paper for the proceedings held or exhibits filed before the revenue authorities in cases originating with a collector or other officer of Government claiming to assess land held free of assessment; but the said authorities are authorized in the said cases, as in all other cases wherein they may exercise judicial powers under the provisions of the existing Regulations, to award to witnesses their reasonable charges, and to levy the same, as well as all costs adjudged by them, by the process in force for the recovery of arrears of the Government revenue.—Reg. IX., 1825, sec. v., cl. 10.

274. Persons claiming to hold lands exempt from revenue shall, with their petitions of plant, deliver to the collector, or other officer to whom the same may be preferred, all sunnuds and other writings on which their claim may be founded; and shall insert in the said petition a full specification of the several particulars required to be registered by the rules in force, relative to the registry of rent-free tenures, and of the grounds on which their claim is founded. If the claim shall involve only the interests of Government, the collector shall proceed without delay to investigate the case, giving, however, eight days' previous notice to the party of the day on which he may propose to bring it to a hearing in the mode prescribed for the Civil Courts. If the claim shall be against any individual singly or jointly with Government, the collector shall serve him with a notice containing a statement of the demand, and requiring his attendance in person or by vakeel duly authorized, within the period of one month, with any papers or evidence he may desire to produce in denial of the claim; and on the appearance of such defendant, the collector, after allowing him to inspect and examine the claimant's petition of plaint, and the writings therein referred to, shall call upon him to deliver, within the period of seven days, a statement of the objections he may desire to urge against the claim. In such cases, no other pleadings shall be required from the parties than a plaint and answer; but it shall and may be lawful for collectors to receive and record such subsidiary pleadings as may appear requisite for the elucidation of the merits of the claim. Collectors shall proceed to investigate every such case as soon as possible after the answer of the defendant shall be received; giving, however, as aforesaid, eight days' previous notice to the parties of the day on which he may propose to bring it to a hearing. Provided, that in cases wherein the parties concerned, or their authorized representatives, shall desire or consent (the same being signified in a written petition or ikrarnameh to be filed with the proceedings) to have an immediate decision, whether the case shall originate in a claim on behalf of Government, or in the suit of an individual, and whether the proceedings of the collector shall be

held under the provisions of Regulation II., 1819, or under those of this or any other Regulation touching the matter, it shall be competent to the collector to proceed forthwith to the investigation and decision of the case, without issuing any formal summons or notice.—Reg. IX., 1825, sec. v., cl. 11.

275. Whenever a collector, or other officer exercising the powers of collector, shall be of opinion that any tract of land belongs to Government, and that no individual has bonâ fide possession thereof, it shall be competent to him, by a notification to be stuck up in his cutcherry, in the Zillah Court, and in the cutchery of the canoongoe, moonsiff, or thanadar, to whose jurisdiction the laud in question may belong or adjoin, to require all claimants to the same to appear before him within a reasonable time, to be fixed by the Board of Revenue, not being less than six weeks from the date of such notification; and on the appearance of such claimants, to proceed to investigate their claims in the manner prescribed by Regulation II., 1819, for investigations relative to the liability of lands to be assessed as herein modified. Provided further, that if the collector or other officer aforesaid shall decide that none of the claimants have bonâ fide possession of the lands in question, and his decision shall be affirmed by the Board of Revenue, the said lands shall be at the disposal of Government, until the same shall be adjudged to be private property by a decree of Court on a regular suit. Provided also, that all such suits, if preferred by one of the claimants before the collector, shall be dismissed with costs, unless instituted within six weeks of the date on which the Board may affirm the decision of that officer, and that the rule contained in paragraph 220 shall be strictly applied to such suits; nor shall any such suit be admitted on the part of any person who may not have appeared before the collector pursuant to notice unless he shall be able to show good and sufficient cause for his non-appearance, and shall apply for permission to sue within six weeks of his being informed of the Board's decision; provided further, that if the party shall not prosecute his suit within six weeks of being permitted to sue, the suit shall be dismissed with costs.—Reg. IX., 1825, sec. v., cl. 12.

276. It shall be competent to the Governor-General in Council, by an order in council, to vest any collector or other officer who may be deputed to hold a local inquiry within the limits of any mehaul, with the same powers and authority in regard to all lands held free of assessment within or adjoining to the village or villages in which the lands of such mehaul, or any part thereof, may be situated; and for the investigation of all claims touching such lands as by the foregoing provisions are vested in collectors making settlements in the manner prescribed by Regulation VII., 1822; and also from time to time to depute collectors or other officers aforesaid, for the purpose of ascertaining, recording, or investigating the said claims in the manner above prescribed.—Reg. IX., 1825, sec. vi.

277. The particulars of all lands held free of assessment within all villages and mehauls, of which the settlement may be made under the provisions of Regulation VII., 1822 ("SETTLEMENT"), shall be fully recorded in the proceedings of the collector or other officer making the settlement.—Reg. IX., 1825, sec. vii.

278. Nothing contained in Regulation II., 1819, or in any other Regulation in force, shall affect or be considered to affect the provisions contained in paragraph 51, relative to grants illegally made, subsequently to the dates specified in the said rules respectively; and in all cases in which it shall be established to the satisfaction of the revenue authorities, that any lands now held free of assessment were subject to the payment of the revenue at the dates aforesaid or subsequently thereto, and that they have not been thereafter exempted from the payment of revenue under the authority of the Governor-General in Council, nor adjudged to be exempted from payment of revenue under a regular decree of Court, it shall and may be lawful for the said authorities forthwith to resume and assess the said lands; save and except in cases wherein the revenue of the same may belong to a zemindar, talookdar, or other malguzar, with whom a permanent settlement has been concluded; nor shall the provisions of paragraphs 235 to 239 apply to such cases.—Reg. IX., 1825, sec. viii.

## MINIIYE TENURES OF CANOONGOES.

279. Whereas it was enacted by Section V., Regulation II. of 1816, that the revenue of lands held by canoongoes, generally in the province of Behar, in virtue of their offices, should be liable to resumption; and accordingly, under that law, various resumptions of land so held took place, and the parties to whom the zemindary interest in the same appeared to belong were admitted to engage for the Government revenue; but on the consideration of the proceedings held under the provisions of the above rule, it appeared to the Governor-General in Council to be improper wholly to deprive the canoongoes, or their representatives, of the advantages derived from such lands, and enjoyed by them for a long course of years; and it was accordingly resolved by Government, on the 14th February, 1822, that in cases where the lands had been occupied and managed by the canoongoes, or their representatives, and the rents received by them, they should be replaced in possession of such lands, and a settlement made with them on the principle prescribed by paragraph 48, viz., the revenue to be paid to Government to be equal to one-half of the annual produce (or rental) of the lands, calculated according to the rates at which other lands in the pergunnah of a

similar description may be assessed, securing to the proprietors of the soil such malikana or other allowance as they might have received prior to the resumption of the official minhye tenure; and whereas the existing laws relative to the settlement of resumed la-khiraj tenures are not properly applicable to the case, and it appears to be expedient expressly to provide for the maintenance, by the Courts of Judicature, of the arrangement above described, in order that the canoongoe minhyedars may be secured in the possession (subject to the quit-rent fixed by Government) of the lands, rents, and produce heretofore possessed by them; and whereas it is desirable to provide for the settlement, on the same principle, of any lands that may be resumed under the corresponding rules relating to canoongoes and their official tenures in other parts of the country; and whereas it appears to be generally expedient to make a distinct provision for securing to the holders of la-khiraj lands, resumed by the officers of Government, and assessed on the principle prescribed in paragraph 47, the benefits which that law was designed to bestow, and to declare the competency of Government, in other cases, to continue the persons who have heretofore occupied lands free of assessment, or their representatives, in the possession of the same, notwithstanding such lands being made subject to assessment, the following rules have been enacted for these purposes respectively, to be in force throughout the territories subject to the presidency of Fort William from the date of the promulgation of this Regulation.—Reg. XIII., 1825, sec. i.

280. In case of la-khiraj tenures resumed under the provisions of Regulation IV., 1808, Regulations II. and V., 1816, or any other Regulation in force relative to lands held by canoongoes by virtue of their offices where the minhye or la-khiraj tenure, and the right of property in the land, are vested in distinct parties, it shall be competent to the Governor-General in Council, by instruction to the Revenue Board, or other authority empowered to make the resumption, to continue the minhyedars and their heirs in possession and management of such lands, subject to such assessment as he shall judge it proper to direct; and the parties claiming the zemindary interest, or other proprietary right in such mehauls, shall not be entitled to any land-rent, produce, or profit, beyond what they may have enjoyed up to the period of the resumption of the tenure, or would have been entitled to receive, in the event of Government having confirmed the same in perpetuity, free of assessment. Persons consequently claiming to be maliks of the said lands who, during the continuance of the la-khiraj tenure, had not possession of the same, whether they received a malikana allowance, or otherwise, shall not disturb the possession of the minhyedars, or their heirs and representatives, in any case wherein the Governor-General in Council may have sanctioned such possession; and any suit preferred by such persons in a Court of Judicature to recover possession, contrary to the intent and meaning of this rule, shall be dismissed with costs. Provided, however, that in all cases of the nature above mentioned, wherein the zemindar, or other proprietor of the land, may have received malikana, or other proprietary due, during the existence of the la-khiraj tenure, he shall continue to receive the same, notwithstanding the resumption of the la-khiraj, in like manner as if such resumption had not taken place.—Reg. XIII., 1825, sec. ii.

281. The tenures of the minhyedars, which have been confirmed to them with the sanction of Government, by the arrangement referred to in paragraph 279, or which may be so confirmed in conformity with the preceding paragraph, are declared to be hereditary and transferable; but should they escheat to Government, the parties possessing a zemindary interest, or other proprietary right in the lands, will be admitted to engage for the revenue, subject to a fresh assessment, to be adjusted on the actual assets under the general Regulations.—Reg. XIII., 1825, sec. iii.

282. The principles of paragraphs 280 and 281 shall be considered applicable to all cases of la-khiraj resumption under the general Regulations in force which may come within the favourable rule of assessment contained in paragraph 48 or paragraph 56; it being the evident intention of the rule in question that it should be applied to persons who had been long in possession of the la-khiraj tenures made subject to assessment by the Regulations; and whom it appeared equitable, in consideration of their long possession, to leave in occupancy of the lands composing their respective tenures, at a moderate assessment, not exceeding a moiety of the annual rent produce.—Reg. XIII., 1825, sec. iv.

283. In modification of the existing rules contained in Regulations XXXVII., 1793, XLII., 1795, and XXXVI., 1803, or any other Regulation in force, relative to the settlement of resumed jaghire, altumgah, mududmash, ayma, and other grants of land termed badshahi, or royal; and generally in qualification and explanation of all the rules in force relative to the resumption of la-khiraj tenures, and the future assessment of lands composing the same, it is hereby further declared, that whenever such tenures may be pronounced invalid or extinct by a Revenue Board, or other authority empowered to investigate the la-khiraj title in such tenures, under the provisions of Regulation II., 1819, or of any other Regulation in force, it shall be competent to the Governor-General in Council, on a special report of the circumstances of the case, when it may appear just and proper, in consideration of the long possession of the actual occupant of the land or of his ancestors, to direct his continuance in possession, though not the zemindar, talookdar, or other malik of the land, on his engagement for the future assessment on such terms as may be prescribed by Govern-

ment; and in such cases, the whole of the provisions contained in paragraphs 280 and 281 shall be deemed applicable, and be maintained by the Courts of Judicature accordingly.—Reg. XIII., 1825, sec. v.

## VALIDITY OF GRANTS.

284. It is hereby declared and enacted, that the power of granting la-khiraj tenures, viz., tenures of land exempt from the public assessment, either for life or in perpetuity, as well as of confirming such tenures excepting by a regular judgment passed after a judicial inquiry, belongs, and always has belonged, exclusively to the Supreme Government; and no act, order, or decision, granting or confirming any tenure as aforesaid, within any of the territories subordinate to this presidency, after the annexation of such territories to the British dominions, shall be held valid, unless the same shall have been done, issued, or passed, by or under the immediate directions of the Governor-General in Council; or by some officer expressly authorized by Government to grant or confirm such tenures, or with respect to the confirmation of grants duly authorized by some competent Court of Judicature in a suit regularly tried and decided by it, or by one of the Revenue Boards acting in a judicial capacity, under the rules of Regulation VIII., 1811, whilst that Regulation (rescinded by Section II., of Regulation II., 1819) was in force; and subsequently under the rules of Regulation II., 1819, or any other Regulation expressly empowering the Revenue Boards, after full investigation of claims to exemption from assessment under the general rules applicable to la-khiraj tenures, to pronounce a decision against the assessment, to be considered final, except on proof, in a Court of Judicature, of fraud or collusion in the previous inquiry. Provided also, that no resolution or order passed by the Lieutenant-Governor, and the Board of Commissioners in the Ceded and Conquered Provinces, the Board of Revenue, or other authority exercising the powers of that Board, whereby the right of Government to assess any la-khiraj lands may have been relinquished or postponed, save and except decisions regularly passed according to the rules above cited, shall operate to the prejudice of Government, or be held to bar the revenue authorities from proceeding for the recovery of public dues under the provisions of Regulation II., 1819, or any other rules in force relative to the resumption of la-khiraj tenures held under invalid grants.—Reg. XIV., 1825, sec. ii.

285. The following principles are to be observed in determining the force and validity of grants made by persons exercising authority in the provinces subordinate to this presidency, previously to the acquisition of the country by the British Government.—Reg. XIV., 1825, sec. iii. cl. 1.

286. La-khiraj tenures, of which uninterrupted possession shall have been held exempt from assessment at and subsequently to the periods under mentioned, shall be, and be considered to be, valid, without evidence to any formal grant or confirmation of the same; and shall be continued to heirs in cases in which it may be clearly shown, from the nature and denomination of the tenure, that it is hereditary according to the ancient usage of the country: viz.—the 12th August, 1765, if the tenure be in Bengal, Behar, or Orissa (excepting Cuttack);—the 14th October, 1791, if the tenure be in Cuttack, including Puttaspore or its dependencies;—the 1st July, 1775, if the tenure be in the province of Benares;—the 10th November, 1789, if the tenure be in the provinces ceded by the Nawaub Vizier in November, 1801;—the 1st January, 1792, if in any of the provinces ceded by Dowlat Rao Scindia and the Peshwa, under the treaties of the 16th and 30th December, 1800; the 1st November, 1805, if in the pergunnah of Khandah, or other territory ceded by Nana Govind Rao on the 1st November, 1817. Provided, however, that the above rule shall not apply to cases of derivative tenures, wherein it may appear that the tenure is derived from a jaghirerdar or other person, who, at any of the periods above specified, held lands free of assessment under a temporary or conditional tenure. In all such cases, the parcels of the land so held shall follow the condition of the principal tenure; and if that be resumable, will consequently be liable to resumption.—Reg. XIV., 1825, sec. iii., cl. 2.

287. The proof of possession in the cases provided for by the preceding paragraph, and (in the case of persons not the original grantees) of the hereditary nature of the tenure, shall be on the parties claiming to hold or recover the la-khiraj tenure; the general principle being, that the ruling power is entitled to a certain proportion of the produce of every beegah of land, excepting so far as it shall have transferred, relinquished, or compounded its right thereto; and all parties claiming the benefit of such exceptions being bound to establish their respective claims and titles.—Reg. XIV., 1825, sec. iii., cl. 3.

288. Provided also, that although one or more successions to any tenure as aforesaid may have taken place before the periods specified in paragraph 286, the fact shall not be taken to establish a title of inheritance, unless the tenure be clearly of an hereditary nature; or unless the right of inheritance therein shall have been admitted by the Governor-General in Council, on a reference made to Government according to the rules in force applicable to such cases.—Reg. XIV., 1825, sec. iii., cl. 4.

289. The Courts of Judicature and revenue authorities shall not recognize any potentate, or person, as having been vested with the supreme power within any part of the provinces subordinate to this presidency, save and except the kings of Delhi, the subadars of Bengal, Behar, and Orissa, and the several authorities specified in Regulation XLII., 1795, Regulation XXXVI., 1803, and Regulations VIII. and XII., 1805; and with respect to the territory ceded by Nana Govind Rao, save and except Rajah Chuttersaul, and his predecessors, previously to the Mahratta conquest of that terrritory in the year 1802 of the Sumbut era (corresponding with 1730 of the Christian era), and subsequently thereto his Highness the Peshwa, who then obtained the supreme authority in the territory referred to. If in any case grants shall be produced, purporting to have been made or confirmed by any other person than as aforesaid, alleged to have been vested with the supreme power for the time being, and it shall appear to the Court or other authority investigating the same that the plea is well founded, the Court, or other authority before whom the case may be depending, shall, before passing any decision thereupon, refer the point to the Governor-General in Council, and be guided by his determination.—Reg. XIV., 1825, sec. iii., cl. 5.

290. To the validity of grants made or confirmed by the kings of Delhi, or by any of the rulers aforesaid, it is and shall be held to be necessary,—

1st. That they were made or confirmed within the period during which the person granting or confirming the same possessed and exercised supreme power within the territory in which the lands specified in the grant are situate.

2nd. That the grantee actually and bonâ fide obtained possession of the land granted within the said period.

3rd. That the grant was not subsequently resumed by the officers or the orders of the Government for the time being, previously to the acquisition of the country by the British Government, or if so resumed, that the competence of the officer to resume shall have been expressly disallowed by the Governor-General in Council.—Reg. XIV., 1825, sec. iii., cl. 6.

291. The following shall be held, for the purposes herein specified, to be the periods at which the several provinces subordinate to this presidency were acquired by the British Government, viz., for Bengal, Behar, and Orissa (excepting Cuttack), the 12th August, 1765; for Benares, the 1st July, 1775; for the provinces ceded by the Nawaub Vizier, the 1st January, 1801; for the provinces ceded by Dowlut Rao Scindia and the Peshwa, the 1st January, 1803; for the province of Cuttack, Puttaspore, and its dependencies, the 14th October, 1803; for the pergunnah Khandah, and the other territory ceded by Nana Govind Rao, the 1st November, 1817.—Reg. XIV., 1825, sec. iii., cl. 7.

292. To the validity of grants not made or confirmed by the supreme power (excepting tenures of long possession, described in paragraph 286), it shall be held to be necessary,—

1st. That they were made or confirmed by some authority which the Governor-General in Council shall have expressly declared competent to make or confirm the same.

2nd. That the grantee actually and bonâ fide obtained possession of the land granted, and that the revenue of the land was not subsequently resumed by competent authority.—Reg. XIV., 1825, sec. iii., cl. 8.

293. Provided also, that in cases in which any la-khiraj tenure may have been resumed previously to the acquisition of the country by the British Government, the determination of the question, whether the officer by whom or by whose order the resumption may have been made was legally competent to do so, shall, in all cases wherein it may be necessary to determine this question, rest with the Governor-General in Council. Moreover, all questions touching the validity of grants made or confirmed by any officer subordinate to the supreme power, or the legal effect of resumption by any such officer, which may not have been expressly provided for by the Regulations, and which may be material to the decision of any suit or inquiry, shall be referred by the Courts of Judicature, or other authorities making the investigation, to the Governor-General in Council for determination, unless the powers and competence of the officer in question have been previously determined by Government.—Reg. XIV., 1825, sec. iii., cl. 9.

294. Nothing in the preceding rules shall be construed to affect the provisions contained in Regulation XIX., 1793; Regulation XLI., 1795; Regulation XXXI., 1803; and Regulation XII., 1805; relative to lands not exceeding ten begahs, of which the produce is bonâ fide appropriated to religious or charitable uses.—Reg. XIV., 1825, sec. iv.

295. Decisions passed by any Court of Judicature before the promulgation of these rules, in opposition to the principles therein declared, without due regard to the restricted powers of the revenue authorities as defined in these rules, shall be open to revision in the Court wherein the case may have been decided, as well as to a regular or special appeal (according as the case may have been already decided on appeal or otherwise), notwithstanding the lapse of time since the decision was passed; provided that the petition for a review or appeal be presented to the proper Court, in the manner prescribed by the Regulations, within one year after the promulgation of these rules; or if presented at a later period, that good and sufficient reason be assigned for the delay. Provided,

further, that if the decision shall have been passed by the Court of Sudder Dewanny Adawlut, it shall be competent to a majority of the judges of such Court to admit the petition for a review, and to try and decide the case anew under the provisions of this Regulation, whether they may have joined in passing the former decision or not; the restriction in Section III., Regulation II., 1825 ("PROCEDURE ON THE TRIAL OF ORIGINAL SUITS," paragraph 180), being hereby, as a special exception, declared inapplicable to such cases.—Reg. XIV., 1825, sec. v.

## SPECIAL COMMISSIONERS.

296. It shall be competent to the Governor-General in Council, by an order in council, to appoint one or more special commissioners, as may be judged expedient, for the final determination of all cases which have been or may be investigated by collectors, deputy collectors, or other officers exercising in that behalf the powers of collectors, under the rules of paragraphs 204 to 230, and of paragraphs 264 to 275, subject to the provisions hereinafter enacted; and the commissioner or commissioners so appointed shall similarly determine all suits which may be brought to contest the demand of the revenue officers, on the plea that the annual rent or assessment upon which the demand is founded exceeds what the party is bound to pay, and which may consequently involve the question of a permanent increase or reduction of the public revenue.—Reg. III., 1828, sec. ii, cl. 1.

297. The jurisdiction of the special commissioner or commissioners appointed as above shall extend to such districts or portions of districts, and for such periods, as the Governor-General in Council may direct; and it shall be competent to the Governor-General in Council to fix and appoint the functions to be discharged by each commissioner, and to assign to him such local jurisdiction as may from time to time appear proper.—Reg. III., 1828, sec. ii., cl. 2.

298. Whenever any commissioner or commissioners shall be vested by the orders of the Governor-General in Council with jurisdiction in any district or other division, notice thereof shall be published by proclamation at the cutcherries of the judge and collector of such district, and shall likewise be communicated, through the Court of Sudder Dewanny Adawlut, to the Zillah Courts concerned.—Reg. III., 1828, sec. ii., cl. 3.

299. Whenever any of the said Courts shall be apprized in the manner above specified of the appointment of a commissioner or commissioners to exercise the powers herein specified within any zillah or other local division, the powers heretofore vested in and exercised by the said Courts in regard to all cases belonging to such local division of the nature declared cognizable by the special commissioners shall be suspended, and the said Courts shall immediately stay all proceedings in such cases, until they shall be apprized that the local jurisdiction of the commissioner or commissioners has ceased, and further, the said Courts shall forthwith transmit to the commissioner the records of all cases of the above nature which may be depending before them; provided also, that no appeal shall lie to any of the established Courts of Judicature from any decision which has been, or shall be passed, by the Board of Revenue or a collector, in regard to the revenue of any lands lying within such local division, previously to or pending the appointment of a special commissioner.—Reg. III., 1828, sec. ii., cl. 4.

300. In all cases which have been decided by the Boards of Revenue before the jurisdiction of a commissioner may have been declared to extend to the district in which they have arisen, and in which the parties would, but for the extension of such jurisdiction, have been entitled to appeal to the ordinary Courts of Justice, under the rules contained in paragraphs 235 to 239, 241, 242, and 264 to 275, an appeal shall lie to such special commissioner, and the cases shall be heard and determined in the same manner as appeals preferred to that authority from the decisions of collectors under these rules.—Reg. III., 1828, sec. ii., cl. 5.

301. Notice of the appointment of a commissioner to exercise the powers specified in this Regulation in any district or other local division, shall likewise be communicated to the Boards of Revenue, or other Board exercising control over the revenue officers of such district or division, and on the receipt of such communication, the powers vested in the said Boards, under the provisions of Regulation II., 1819, and Regulation IX., 1825 (with exception to the powers specified in paragraph 172, "REALIZATION OF REVENUE"), shall be suspended within the said district or division; and the said Board shall immediately stay all proceedings in cases thereunto belonging which may be depending before them, under the provisions of the above Regulations, as well as in all other cases relating to the said district or division of the nature herein described, and shall forthwith transmit to the commissioner the records of all such cases.—Reg. III., 1828, sec. ii., cl. 6.

302. When any suit may be transferred by a Court of Justice or a Board of Revenue to a special commissioner under the provisions of this Regulation, the commissioner or commissioners by whom such suit shall be decided shall determine the amount of remuneration to be assigned to the vakeels who may have been employed by the parties in conducting such suit before the Court or Board from which it may be transferred, and generally how any costs previously incurred shall be borne; all such sums which may have been deposited in such Court or Board on account of vakeels'

fees shall be kept in deposit until the case is decided, when the amount awarded to the vakeels by the commissioners shall be paid to them.—Reg. III., 1828, sec. ii., cl. 7.

303. Whenever the jurisdiction of a commissioner shall be declared by the orders of Government to extend to any district or other local division, it shall be competent to the Governor-General in Council to invest such commissioner with any or all of the powers vested by the Regulations in force in the Boards of Revenue.—Reg. III., 1828, sec. iii.

304. When the jurisdiction of a commissioner shall have been established in any particular district, it shall be competent to the collector, or other local revenue officer of such district, to institute the inquiries specified in Regulation II., 1819, and Regulation IX., 1825, in regard to any lands which he may have reason to believe are held free of assessment, or at an inadequate jumma under an invalid tenure, or which being unoccupied he may consider to be public property, without previously applying for the sanction of the Board of Revenue. In all other respects, however, he is to proceed to the investigation of the case in the manner provided for in Regulation II., 1819, and Regulation IX., 1825, accordingly as the one or the other may apply to the case; and having closed his proceedings, he shall record in a Persian roobakary his judgment as to the liability of the lands to assessment or otherwise, in the manner directed in paragraph 230, and such decision shall have the force and effect of a decree, and a copy thereof on plain paper shall as soon as possible be delivered to the party concerned.—Reg. III., 1828, sec. iv., cl. 1.

305. If the decision of a collector shall declare the lands liable to assessment, or shall adjudge them to be the property of Government, it shall not be necessary for him to transmit his proceedings to the Board of Revenue, or to the special commissioner, but the party against whom such decision is passed shall be at liberty to appeal from the same to the special commissioner, within two months from the date on which a copy of the decision may have been tendered to him by the collector; but it shall be competent to the commissioner to admit an appeal, after the expiration of the above period, on sufficient cause being shown why it was not sooner preferred. Provided also, that petitions of appeal may, at the option of the party, be either presented to the special commissioner, or delivered to the collector for transmission to that authority.—Reg. III., 1828, sec. iv., cl. 2.

306. It shall and may be lawful for the collector, whether an appeal be filed or not, immediately to carry into effect his decision by attaching and assessing the land; reporting his proceedings for the information and orders of the Board, or of the commissioner, if vested with the powers of the Board: provided, however, that in cases appealed to the commissioner, it shall be competent to that authority to stay execution of the collector's decree and to cause the attachment of the land to be suspended or withdrawn, on due security being tendered by the appellant for the payment, from the date of the collector's decision, of the revenue which may ultimately be assessed on the land. —Reg. III., 1828, sec. iv., cl. 3.

307. If the collector shall decide against the assessment, he shall report his proceedings, together with the whole record of the case, to the Board of Revenue, who are to take the case into their consideration, and if they shall be of opinion that the grounds assigned by the collector for considering the lands exempt from assessment are insufficient or invalid, it shall be competent to the Board, within one year from the date on which they may receive the collector's proceedings, to transfer the case for revision and final orders to the special commissioner, who shall issue a notice requiring the attendance of the party in whose favour the collector may have decided; and should such party neglect, after having been duly summoned, to attend and defend the appeal before the commissioner, it shall be competent to the commissioner to hear and decide the case ex parte.—Reg. III., 1828, sec. iv., cl. 4.

308. In all cases decided by a special commissioner or commissioners, whether on appeal by individuals from decision of the collector, or on reference from the Board of Revenue under the above rule, or in cases transferred from any of the ordinary Courts of Judicature, the decision passed by the special commissioner or commissioners, who by warrant from the Governor-General in Council and the provisions of this Regulation may be competent to pass the same, shall be final, save and except in cases which, if decided by the Court of Sudder Dewanny Adawlut, would be appealable to her Majesty the Queen in Council: in such cases, a similar appeal will lie from the decision of the special commissioner or commissioners, under the same rules and restrictions as are applicable to appeals from the decisions of the aforesaid Court; provided, however, that such decisions shall be immediately executed and enforced, notwithstanding the institution of the appeal; provided also, that it shall be competent to any commissioner to review any judgment passed by him, on sufficient cause being shown why a new trial should be granted—the rules in the existing Regulations regarding a review of judgment being held applicable to such cases.—Reg. III., 1828, sec. iv., cl. 5.

309. Whenever the act or judgment appealed against may have been done or passed by a special commissioner, appointed under these rules, such case shall not be cognizable by the said commissioner, whether he may have been at the time when such act or judgment was done or passed

by him, exercising the powers of a collector or member of a Board of Revenue, or of a judge of a Zillah or City Court.—Reg. IV., 1829, sec. ii., cl. 1.

310. Whenever a petition of appeal in a case of the above nature may be preferred to a special commissioner, he is hereby directed and required to report the circumstances of the case for the orders of Government, and it shall be competent to the Governor-General in Council to direct some other special commissioner, or such other tribunal as he may deem proper, to receive and decide the appeal agreeably to the rules and Regulations applicable to the case.—Reg. IV., 1829, sec. ii., cl. 2.

311. In all cases in which the judgment of a single special commissioner shall coincide with the decision passed by a collector or by a Board of Revenue, or by a Court of Justice, in cases which have been decided by an inferior Court, and after having been appealed to a higher, have been transferred under the provisions of this Regulation to a special commissioner, the decision of such single commissioner shall be final, subject to the provisions of paragraph 308. But if, on hearing any case of the nature above specified, a single commissioner shall be of opinion that the last award made in such case ought to be reversed or altered, he shall record his opinion to that effect, and the case shall then be laid before another special commissioner appointed under this Regulation, and should he disagree in opinion as to the decision of the case, to a third commissioner, so that the final award may be made by the concurrent voices of at least two special commissioners. Provided that it shall be competent to the Governor-General in Council, on the occasion of appointing a special commissioner to exercise the powers specified in this Regulation within certain local limits, to determine at the same time to what other special commissioner a reference shall be made by him in cases of difference of opinion.—Reg. III., 1828, sec. iv., cl. 6.

312. It is hereby declared and enacted, that the provisions of this Regulation are not intended and shall not be construed to extend to cases of the nature specified in paragraphs 249 to 261, save and except when such cases may involve the rights of Government to subject to assessment all or any portion of the lands in respect to which the action may be brought. In cases of the above description, in which the Government may be a party, whether instituted in the first instance before the collector, or referred to him by the Court, the collector shall proceed to investigate and decide, in the mode prescribed in paragraphs 304 to 311; the rules in which shall be held to apply to such suits and all other cases falling within the provision of paragraphs 249 to 261, in which the Government is not itself a party, shall be heard and determined under the rules therein enacted, and the subsequent modifications of them declared in paragraphs 264 to 275.—Reg. III., 1828, sec. v.

313. The special commissioners appointed under these rules shall be guided by such rules as may be prescribed by the Governor-General in Council in regard to the forms of proceeding, the nature and number of the pleadings, the mode in which they are to be conducted, the paper (stamped or unstamped) to be used, the fees to be levied, and generally, the rules of practice to be followed.—Reg. III., 1828, sec. vi., cl. 1.

314. The special commissioners shall likewise be competent to issue such instructions to the collectors of the districts over which their jurisdiction extends, in regard to their proceedings relative to cases investigated under the rules of Regulation II., 1819, and Regulation IX., 1825, as may appear requisite for their guidance and conducive to the ends of justice, and, when it may appear necessary or proper, to refer cases back to those officers for further trial.—Reg. III., 1828, sec. vi., cl. 2.

315. All processes issued by a commissioner shall be enforced in the same manner, and under the same penalties for disobedience or resistance, as processes of the ordinary Courts of Justice, and all the powers possessed by those Courts, in regard to contempts, the summoning and examination of witnesses, and the administration of oaths or affirmations, shall be vested in the commissioners, whose decision shall, in such matters, be final.—Reg. III., 1828, sec. vi., cl. 3.

316. The special commissioners shall be competent to require the Zillah Courts to carry into execution, when necessary, the decisions which they may pass, and the Zillah Courts shall give effect to such decisions in the same manner as they are required to execute the decrees passed by the Court of Sudder Dewanny Adawlut.—Reg. III., 1828, sec. vi., cl. 4.

317. The several rules and provisions contained in the existing Regulations relative to native officers belonging to the Zillah Courts, will be applicable to the native officers employed by the special commissioners, except in cases in which the commissioners may, with the sanction of Government, otherwise determine.—Reg. III., 1828, sec. vi., cl. 5.

318. Any person knowingly giving a false deposition, whether on oath or hullufnameh, relative to any suit or matter depending before a commissioner, and upon a point material to the issue thereof, shall be held and considered guilty of perjury, and shall, on conviction, be liable to the penalties prescribed by the Regulations for that offence. And any person causing or procuring another person to commit the offence of perjury as above described, shall be guilty of subornation of perjury, and shall be punishable, on conviction, under the provisions of the said Regulations.—Reg. III., 1828, sec. vi., cl. 6.

319. The commissioners shall be competent to commit persons guilty of the above offences for trial before the Sessions Court, and any magistrate receiving from a commissioner a roobakary, directing the commitment of such offenders, shall give effect to the same in like manner as if the commitment were made by himself.—Reg. III., 1828, sec. vi., cl. 7.

320. It shall be the duty of the Courts and of the revenue officers to afford the commissioners every aid and information that they may require—to serve all processes issued and required to be served by the commissioners in like manner as if they were issued by themselves, to prepare and transmit to the commissioners such lists of cases decided or pending before them, as they may see occasion for, and to furnish all papers and documents which the commissioners may desire to examine. —Reg. III., 1828, sec. vii., cl. 1.

321. It shall likewise be competent to the commissioners to require the Zillah Courts or the collectors to examine witnesses, either on written interrogatories or otherwise, in regard to any points, the investigation of which it may appear necessary to conduct in that manner, and generally to inquire and report on particular points upon which further information is desirable, in the same manner as the said Court are required to report in pursuance of precepts issued to them by the Court of Sudder Dewanny Adawlut.—Reg. III., 1828, sec. vii., cl. 2.

322. The special commissioners shall furnish to Government periodically such statements and reports as the Governor-General in Council may prescribe.—Reg. III., 1828, sec. viii.

323. The special commissioners appointed under this Regulation shall, before entering on the performance of their functions, take and subscribe a solemn oath, according to the following form, and such oath is to be administered by such person or persons as the Governor-General in Council may direct:—

FORM OF OATH.

"I, A. B., appointed a special commissioner, under the rules of Regulation III., A.D. 1828, solemnly swear, that I will investigate and determine in equity and good conscience, to the best of my ability, knowledge, and judgment, without fear, favour, promise, or hope of reward, all matters which by the said Regulation, or any other Regulation in force, I may be required to investigate and determine; that I will not receive, directly or indirectly, any present or nuzzur, in money or effects of any kind, from any party whomsoever, on account of any matter to be received, investigated, or determined by me, or which may be depending or have been investigated or determined under the above-mentioned Regulation; that I will not knowingly permit any person or persons under my authority to receive, directly or indirectly, any present or nuzzur, in money or effects of any kind, from any party or person whatsoever, on account of any matter as aforesaid; and that I will not derive, directly or indirectly, any emoluments or advantages from my office, excepting such as the orders of Government do or may authorize me to receive.

—Reg. III., 1828, sec. ix. "So help me God."

324. The following rules are hereby enacted in modification and extension of the provisions contained in paragraphs 235 to 242.—Reg. III., 1828, sec. x., cl. 1.

325. All decisions which have been or may be passed by the Boards of Revenue, under the rules in paragraphs 231 to 234, declaring the liability to assessment of lands, whether the same be situated in districts to which the jurisdiction of a special commissioner has been extended, or in any other district, shall be carried into immediate execution by the collectors or other local revenue officers of such district, notwithstanding that the parties against whom such decisions may have been or may be passed, shall have sued or shall sue to contest the Board's decision in one of the established Courts of Justice, or to the commissioner appointed under this Regulation, and such parties shall not be permitted to retain possession of the lands, unless they enter into an engagement to pay the assessment which may be fixed upon them; such assessment to be collected under the general rules for the realization of the Government revenue from farmers thereof. And if any person against whom the Board may have decided, shall decline to pay the assessment fixed on the lands, he shall be forthwith dispossessed, and such arrangements shall be made for the collection of the Government revenue, as the collector, under the orders of the Board may see fit to adopt; but in the event of a final decision being passed, exempting the tenure of any such person from assessment, the net collections made on account of Government shall be refunded, with interest thereon at the rate of six per cent. per annum.—Reg. III., 1828, sec. x., cl. 2.

326. All suits which may be instituted in the established Courts of Justice, under the provisions of paragraphs 235 to 239, 241, 242, 264 to 275, to contest decisions of the Boards of Revenue, shall, when the jurisdiction of the above Courts is not barred by the operation of this Regulation, be heard and determined in the same manner as regular appeals, and no further pleadings shall be required or received in such cases than the objections of the appellant to the decision of the Board, and the reply to those objections on the part of the revenue authorities; the said Courts shall likewise, on the admission of an appeal, invariably call for the original record of the Board's proceedings in each case, and shall then require the parties to file their pleadings as above provided; but it shall not be competent to the Courts to take further evidence, oral or documentary, unless it shall appear that

such evidence was tendered by the party adducing it to the collector or the Board, and was then rejected on insufficient grounds, or that such evidence is essential to the ascertainment of some fact material to the issue, which may not have been fully inquired into in the course of the previous investigation.—Reg. III., 1828, sec. x., cl. 3.

327. Provided, however, and it is hereby enacted, that nothing contained in the preceding paragraph shall be construed to bar the admission of a further appeal on the part of the revenue authorities to the Court of Sudder Dewanny Adawlut, from decisions passed in the first instance in the Zillah Court in cases of the nature described, and specially provided for in paragraph 243, nor the admission by those tribunals of the special appeal on the application of the party opposed to Government under the rules in paragraphs 243 and 244.—Reg. III., 1828, sec. x., cl. 4.

328. Appeals filed in the established Courts of Civil Judicature to contest decisions of the Board of Revenue, shall be kept on a file or register distinct from that on which other suits before those Courts are entered; and the Civil Courts are hereby required to appropriate the first day in each week to the trial and decision of such appeals, and to prevent any unnecessary delay on the part of the appellants in prosecuting their appeals by a strict enforcement of the rules prescribed in Act XIX., 1853 ("PROCEDURE ON THE TRIAL OF ORIGINAL SUITS").—Reg. III., 1828, sec. x., cl. 5.

329. There being reason to believe that the rules in paragraph 104, whereby the judges of the Zillah and City Courts were directed to furnish the collectors of the districts in which the land may be situated, and the Board of Revenue, with copies of every decree passed by them in suits between individuals, or sent to them by the Superior Courts to enforce, by which the right in, or possession of, any lands held exempt from the payment of public revenue, may be affected, has not generally been observed by those Courts; Section IX., Regulation VIII., 1811, and Section IX., Regulation V., 1813, having also been rescinded by Regulation II., 1819, without due provision being made for all successions to the possession of la-khiraj tenures being duly reported to the revenue officers, the following rules are now enacted for that purpose.—Reg. III., 1828, sec. xi., cl. 1.

330. Persons succeeding to the possession of any lands held free of assessment, or held on a mokurreree jumma, on the decease of a former occupant, or by gift, purchase, or other assignment or transfer of proprietary right, are hereby required immediately to notify the same to the collector, or other officer exercising the powers of collector, within the district in which the land may be situated, and any omission to notify such succession or transfer for a period of six months or more, shall subject such land to immediate attachment by the revenue officers. Nor shall land so attached be restored to the party who may claim to hold it, though the validity of the tenure be subsequently established to the satisfaction of the revenue authorities, until such party shall have paid to Government a fine equal to one year's rent, and if the revenue derivable from the land be not awarded to be the right of the individual, the party shall further be required to refund the amount of the collections made by him, with interest thereon at the rate of twelve per cent. per annum: provided also, that the said rent and collections shall be estimated according to the assessment demandable from the ryots at the time of attachment.—Reg. III., 1828, sec. xi., cl. 2.

331. Where the lands of any individual may be attached under the above rule, any claim which he may prefer to recover possession thereof, and to hold the same free of assessment, or on a mokurreree jumma, shall be investigated and determined by the collector, under the provisions of Regulation II., 1819, as modified by the present Regulation, and by those which have been intermediately enacted.—Reg. III., 1828, sec. xi., cl. 3.

332. All tenures which may not have been duly registered in the manner prescribed by the Regulations, or of which the specification contained in the register shall not purport the same to be held under an hereditary title, or as a perpetual endowment, shall be and be held to have been liable to resumption, unless the same may have been declared hereditary by a final decree of a competent Court of Judicature, on the demise of the persons who were in possession at the dates respectively of Regulations XIX. and XXXVII., 1793; Regulations XLI. and XLII., 1795; Regulations XXXI. and XXXVI., 1803; Regulations VIII. and XII., 1805; according as the lands may be within the districts to which those Regulations are severally applicable, or in other parts of the country at the date at which the same came into the possession of the British Government. And collectors, and other officers exercising the powers of collector, shall accordingly proceed to assess, and if necessary, attach all lands liable to resumption as above, in the same manner and with the same powers as they are authorized and required to proceed in the case of a lapsed farm, anything in the existing Regulations to the contrary notwithstanding. Provided further, that the nature and extent of the interests vested in the holders of lands and rents exempted from assessment shall, when the title-deeds are forthcoming, and their authenticity recognized, be construed and defined with reference to the whole of the matter contained in such deeds, and not merely by the designation of the tenure. Jaghires consequently shall not be held to be life tenures in cases in which the recital of the grant shall be such as clearly to convey an hereditary interest; nor shall any tenures, howsoever designated, be considered to be hereditary and perpetual, if the grants under which they are held shall not convey, in express terms, an hereditary or perpetual interest.—Reg. III., 1828, sec. xii.

333. The uninhabited tract known by the name of the Sunderbuns has ever been, and is hereby declared still to be, the property of the state: the same not having been alienated or assigned to zemindars, or included in any way in the arrangements of the perpetual settlement, it shall therefore be competent to the Governor-General in Council to make, as heretofore, grants, assignments, and leases of any part of the said Sunderbuns, and to take such measures for the clearance and cultivation of the tract as he may deem proper and expedient. All parties to whom such grants, leases, or assignments shall have been made, or to whom they may hereafter be made, shall be entitled to hold or to take possession of any tract of Sunderbun jungle so granted or assigned, without question or opposition, and all public officers shall aid and assist the same. Provided also, that if any zemindar, talookdar, or other sudder malguzar, or any other person owning and occupying or collecting the rent or revenue of cultivated land in the neighbourhood of the land so granted, leased, or assigned, shall sue in any Court of Adawlut, or before a special commissioner, under this Regulation, to contest the validity of the title or the right of possession of any such lessee or grantee under such grant, lease, or assignment, then, if the land aforesaid shall be proved to be, or to have been, or be not denied to be or to have been, when so granted, leased, or assigned, within the limit of the unoccupied jungle so named and described, the suit shall be dismissed with costs. Provided, however, that if any zemindar, talookdar, or other person aforesaid, shall claim to possess a valuable interest in any part of the Sunderbuns, by virtue of authority to collect money or other valuable thing from the persons engaged in gathering wax, or cutting wood, or obtaining other jungle products of the tract, or by virtue of any other similar privilege or advantage which may have been recognized as part of the assets on which the assessed revenue of his zemindary, talookdary, or other tenure, was adjusted at the time of forming the perpetual settlement of the district, and the collection of which was not subsequently stopped and due compensation made, under the rules relative to the collection of sayer revenue, or other similar arrangement, such zemindar, talookdar, or proprietor, shall be entitled to receive from Government compensation for any dimunition in the value of such interest and advantage consequent on the arrangements adopted for the cultivation of the Sunderbuns; the same being duly established, after an investigation conducted under the rules of Regulation II., 1819, as modified by this Regulation.—Reg. III., 1828, sec. xiii., cl. 1.

334. The boundary of the Sunderbun jungle shall be laid down by accurate survey, as determined on the spot by the commissioner of the Sunderbuns; and any zemindar, talookdar, or party interested, shall be entitled, on application made through the commissioner, and on payment of the charge of preparing the same, to receive a copy of the survey map, or of any part of the same, with the boundary marked there as so determined, together with a copy of the commissioner's proceedings on the subject. Any party deeming his right injured by the demarcation so laid down, shall be at liberty, at any time within three months from the date of the commissioner's proceeding fixing the same (which proceeding shall always be held and published on the spot), to contest the same by petition to a special commissioner under this Regulation having local jurisdiction for the time being (or if no such jurisdiction exist, to the ordinary Courts of Justice, by which the case is cognizable), praying further investigation; provided that no plea of objection against the line of demarcation laid down shall be heard or admitted, excepting only such as shall declare and offer proof that at the time of survey a specific quantity of land, or land with defined limits, was in the occupation of the petitioner cleared and under cultivation, which, by the line of demarcation adopted, is placed within the Sunderbun tract belonging to Government. Every such application so made shall be regarded as a claim to hold the tract claimed free of the public assessment, and shall be investigated and decided under the rules of Regulation II., 1819, as modified by this Regulation.—Reg. III., 1828, sec. xiii., cl. 2.

## RULES OF PRACTICE.

RULES OF PRACTICE *for regulating the Proceedings of the Special Commissioners appointed under Regulation III.*, 1828: PASSED *by the Right Honourable the Governor-General in Council, on the 21st August*, 1828.

335. The several cases which may be received for trial by each commissioner, whether transferred by the Courts of Justice, or Boards of Revenue, or received on appeal by parties, shall be regularly numbered and entered on separate file-books, according to the following classification, viz.:—

One file for cases of la-khiraj lands or tenures claimed to be held free of all rent.

One file for cases of claims to hold land at mocurreree, or fixed jumma, or to resist the assessment of land on the plea that it is included in settled estates, such as Halabad, Noabad, Towfeer, and Puteetabadee lands.

One file for new churs and jungle lands claimed as the absolute property, and at the disposal of Government.

Each file to be kept according to the form (A) annexed.

336. Each commissioner is to entertain a mohafez dufter, who is to have special charge of the records of cases to be heard and determined, for the safe custody of which that officer shall be held responsible, and all officers, who may be employed by the commissioners in the execution of the duty confided to them, shall be considered as exclusively under their control.

337. Whenever the record of any cause may be transferred by a Court of Justice to a special commissioner, under the rule contained in paragraph 299, the commissioner shall, in a Persian roobakaree, acknowledge the receipt of the record, and request the Court to intimate the transfer to all parties connected with the suit, who may have appeared before it. The commissioner shall further issue a notice according to the form in use in the Courts of Justice, to be served through the Zillah or City Court within the jurisdiction of which the lands may be situated, requiring their attendance for the purpose of prosecuting or defending the suit, as the case may be; all notices of the above description, which it may be necessary to issue to any officer on the part of Government, shall be served as hereinafter directed.

338. In all cases which may be transferred to a special commissioner by a Board of Revenue, under the provisions of paragraph 301, the Board shall be requested to notify the transfer to the parties or their agents, who may have appeared before them, and notices, similar to those prescribed in the preceding paragraph, shall be issued for the attendance of the parties, to be served through the judge of the Zillah or City Court within the jurisdiction of which the lands may be situated.

339. Whenever any person, who may be dissatisfied with a decision passed by a collector, shall, under the option given in paragraph 305, present his petition of appeal to the collector by whom the decision has been passed, it shall be the duty of that officer, after having had a complete copy of the record of the case made for retention in his own office, to transmit the original record of the suit, accompanied by an accurate list of all the papers contained in it, to the office of the special commissioner of the division; in making a transcript of the record previous to transmission, the collector is to be specially careful that all sunnuds and other documents are accurately and faithfully copied for record in his office; and the original record is, in all practicable cases, to be transmitted within fifteen days from the date on which the petition of appeal may be filed.

340. On the same day on which the original record of any case appealed may be transmitted from the collector's office to that of the special commissioner of the division, the collector shall issue a notice to the appellant, apprising him thereof, and requiring him to attend the commissioner, either in person or by an authorized agent, for the purpose of prosecuting his appeal within six weeks from the date of the receipt of such notice; if any other person, not being an officer of Government, shall have been a party to the case, a similar notice shall be issued to such person, and the due service of such notices shall, on their being returned to the collector, be certified by him to the special commissioner.

341. It shall likewise be the duty of the collector, on the transmission of the record of any case appealed as above specified, to give notice of the admission of such appeal by perwannah, addressed to the officer who may be appointed, as hereinafter provided, agent on the part of Government at the cutcherry of the special commissioner.

342. Every petition of appeal from the decision of a collector, preferred direct to a special commissioner under the rule quoted in paragraph 339, or from the decisions of a Board of Revenue, under the provisions of paragraph 300, shall invariably be accompanied by a duly authenticated copy of the decree appealed from; and on the admission of an appeal so preferred, the special commissioner shall, when the decision appealed from may have been passed by a collector, issue a precept to that officer, requiring him, within a specified time, to transmit the original record of the cause to the office of the special commissioner, a copy of the record being retained by the collector, as provided in paragraph 339; in cases when the appeal admitted as above shall be from a decision passed by a Board of Revenue, the special commissioner shall, by a Persian roobakaree, require such Board to transmit to his office the original record of the case (a copy being similarly retained), within a specified period.

343. When an appeal may be admitted by a special commissioner under the rules contained in the two preceding paragraphs, if there shall appear, on a perusal of the decree appealed from, to be any individuals interested in the issue of the appeal besides the appellants and the officers of Government, it shall be the duty of the special commissioner to direct a notice of the nature described in paragraph 340 to be served on such persons, through the Zillah or City Courts within the jurisdiction of which they may reside, and the due service of such notice shall be certified by the judge of such Court, in reply to the precept issued to him by the commissioner.

344. In cases which may be referred to the special commissioners by the Revenue Boards, under the provisions of paragraph 307, the notice therein directed to be issued for the attendance of the respondents, as well as any notice which it may appear proper to the commissioners to issue for the attendance of any other party, not being an officer of Government, shall issue through, and be served by the judge of the Zillah or City Court of the district in which the respondent or such party may respectively reside.

345. With reference to the provisions of paragraph 306 and paragraph 314, it is provided that, whenever a petition of appeal shall be preferred to a collector against a decision passed by him, declaring land liable to assessment, or when a collector may have reason to believe that it is the intention of the party against whom such decision may have been passed, to appeal therefrom within the period limited by the above Regulation, he shall not proceed to carry the decree into execution until after the expiration of that period, unless he shall be sooner apprised that an application on the part of the appellant to stay execution of the decree has been rejected by the special commissioner, in which case, or otherwise after the expiration of the period limited for appealing, he may proceed to execute the decree, unless prohibited from so doing by order of the special commissioner.

346. Provided also, that in cases in which the petition of appeal may be filed before a special commissioner, if, on a perusal of the decree, he shall see reason to direct execution thereof to be suspended, an order to that effect shall be issued to the collector, along with the requisition for the original record of the cause directed to be issued in paragraph 342.

347. Every petition of appeal from the decision of a Board of Revenue, or of a collector, which may be preferred to a special commissioner, under the provisions of Regulation III., 1828, shall be written on stamped paper, of the value of one rupee.

348. It shall be at the option of the appellant to enter the grounds of his appeal in detail in the petition for the admission of his appeal, or to reserve his arguments to be brought forward in a separate pleading; but in the event of his adopting the latter course, such pleading shall be written on stamped paper, value one rupee.

349. In appeals wherein an officer of Government is the party respondent, the reply to be filed to the grounds of appeal is to be written on stamped paper, value one rupee, and a reply, either in express refutation of the pleas of the appellant, or generally resting the defence on the grounds recited in the decree appealed from, shall be required in every case.

350. In cases referred by the Revenue Boards for revision to the special commissioners, under the rule in paragraph 307, the Board referring the case shall be required, in reply to the reference, to direct the *superintendent and remembrancer of legal affairs*, or some other public officer, to file a pleading containing the grounds on which the Board are dissatisfied with the collector's decree, and such pleading shall be written on stamped paper, value one rupee.

351. The reply of the party opposed to Government, in cases of the above description, shall likewise be written on stamped paper, value one rupee.

352. No miscellaneous petition or pleading of any kind, beyond the wujoohat of the appellant, and the reply of the respondent, shall be admitted, unless on a verbal representation by the parties or their agents, before the commissioner, such additional pleading or miscellaneous petition shall appear necessary, but when admitted to be so by the commissioner, and allowed to be filed, it shall be written on stamped paper, value one rupee.

353. The foregoing rule is not, however, to be construed to prevent the admission, by the special commissioners, of petitions presented solely for the purpose of staying execution of decrees, which petitions may be received and acted on at any time pending the decision of an appeal.

354. With reference to the provisions for a review of judgment contained in paragraph 308, it is provided, that all petitions for review of judgment, which may be presented to the special commissioners, shall, if presented within two calendar months from the date of the decision of which review is prayed, be written on stamped paper value one rupee; but if presented after the expiration of the above period, such petition shall be written on the stamped paper prescribed in Article 8, Schedule B, Regulation X., 1829, ("CIVIL JUDICATURE,") calculated at the computed annual produce of the land in dispute.

355. If any appellant shall not, within the period of six weeks from the date of instituting his appeal, if preferred direct to a commissioner, or, if filed at the collector's office, from the date on which he may receive notice that the record of the case has been transmitted to the commissioner, either attend in person, or appoint an agent as hereinafter provided, and prosecute his appeal, a further notice shall be issued by the commissioner, through the Zillah or City Court, requiring such appellant to attend and prosecute his appeal within fifteen days from the date of the receipt of such notice. If the peon charged with the service of the notice cannot serve it upon the appellant personally, he shall proclaim the same at the dwelling of the appellant in the presence of witnesses, and such proclamation shall be deemed equivalent to personal service; and if the appellant shall afterwards omit or refuse to attend the commissioner within the prescribed period, his appeal shall be dismissed, with costs.

356. If an appellant, after having appointed an agent to plead his cause, shall neglect to prosecute the same for a period of six weeks, a requisition by the commissioner to such agent, to proceed in the case within fifteen days, shall be held equivalent to a notice to the appellant, and in the event o his not so proceeding, his appeal shall be dismissed.

357. All notices required to be served on any officer of Government concerned in a suit before the commissioners, shall be delivered to the agent appointed on behalf of Government at each

commissioner's cutcherry, who shall give a receipt for the same, and transmit a copy thereof to the officer concerned, and return the original to be filed on the record.

358. Should the special commissioners, acting on the discretion vested in them, in common with the ordinary Courts of Justice, by paragraph 326, deem it necessary or proper to receive further evidence, oral or documentary, in any case depending before them, no stamp fee shall be levied from the parties for summoning witnesses or filing exhibits.

359. If, in any case, the special commissioners shall deem the further evidence of witnesses necessary, they shall be summoned and examined by the judge of the zillah or city within which they may reside, on specific points indicated by the commissioners and recorded on their proceedings. If a party, at whose instance a witness may be summoned, will undertake himself to produce him, or to serve the subpœna on him, he shall be allowed to do so; otherwise the process shall be served by a peon of the Zillah or City Court, under the ordinary rules in force: the same course shall be followed whenever it may be considered necessary to examine a witness before any of the special commissioners.

360. Every party whose case may be depending, under Regulation III., 1828, before a special commissioner, shall be at liberty, if he chooses, to attend and plead his own cause in person, or to appoint a mokhtar or agent specially for that purpose.

361. Every person who may appoint an agent, as above authorized, shall execute a regular power of attorney in such agent's name, and the execution of such instrument, which may be written on unstamped paper, shall be attested by some European public officer, and it shall be filed on the record of the case.

362. The parties in cases before the commissioners are not to be restricted in the appointment of agents to any particular number of individuals, provided that the persons appointed shall appear to the commissioners to be of good character and respectability.

363. The parties shall be at liberty to make such arrangements in regard to remuneration for their services with the mokhtars or agents whom they may appoint, as may be agreed on among themselves; provided, however, that if, on the decision of the case, the parties shall disagree as to the sufficiency or otherwise of the terms agreed on, the amount shall be fixed by the commissioner or commissioners by whom the case is decided; provided also, that if any mokhtar shall (without waiting for the final adjustment of the matter as above provided for at the time of decision) decline to act further for his principal, he shall, if the latter demand it, be required to refund any sum which he may already have received for undertaking the conduct of the cause.

364. Every agent or mokhtar, who may be appointed to conduct a cause before the special commissioners, shall be subject to fines and other penalties for neglect, contempt of Court, or other misbehaviour, to the same extent, and in the same manner, as the regular pleaders of the Courts of Justice are subject by the Regulations.

365. An agent shall be appointed (if approved by Government) by *the superintendent and remembrancer of legal affairs*, to attend on behalf of Government at each cutcherry, where suits may be heard and determined by the special commissioners, and such agent shall be remunerated by a fixed salary, or in such other manner as the Governor-General may be pleased to determine; the agent so appointed shall moreover be liable to all the rules applicable to Government pleaders, as well as to the rules prescribed for the agents who may be employed by individuals to plead before the commissioners.

366. In giving judgment in each case, if the special commissioners shall see reason to interfere in regard to the compensation to be paid by the parties to the agents employed to plead their cause, the amount of remuneration finally authorized shall be inserted as costs at the foot of the decree; distinct provision shall likewise be made in every decree as to whether the party against whom it is passed is, or is not, to bear the whole or any portion of the expenses which may have been incurred by the party opposed to him, including, of course, costs of the nature indicated in paragraph 300, in cases to which that paragraph may be applicable.

367. The original decrees of the special commissioners, intended to be kept with the records of the cases, as well as three counterparts, to be disposed of as underneath directed, are to be transcribed on plain paper, but of European manufacture exclusively; one counterpart shall, as soon as practicable, be delivered to the party opposed to Government; one counterpart shall be transmitted to the collector of the district in which the land is situated; and the remaining counterpart shall be forwarded to the Board of Revenue, or other authority exercising the powers of a Board of Revenue, under the control of which such collector may be placed. All other copies of the decrees of the commissioners, which parties may require for private use, or as documents to exhibit in evidence, shall be made at the expense of the parties, on plain or stamped paper, under the general Regulations in force; but such copies shall only be permitted to be prepared by persons duly authorized by the commissioners.

368. In transmitting a counterpart of the decree, as above directed, to the collector, the commissioner, by whom it may have been passed, shall accompany it by instructions to that officer

to carry it into immediate execution, and to report, within a given period, the measures which he may have adopted for that purpose.

369. In all matters not specially provided for in the foregoing rules, or in Regulation III., 1828, the course of proceeding shall be conformable to the rules in force for the guidance of the Courts of Justice in the trial and decision of regular appeals

370. With a view to insure uniformity in the proceedings and practice of the several special commissioners appointed to act under Regulation III., 1828, it is hereby provided, that whenever it may be deemed necessary by any special commissioner to propose rules of practice, either original or in modification of the present rules, he shall transmit a draft of such rules to each of the other commissioners acting under the Regulation, with a request that they will record their sentiments on the expediency or otherwise of the proposed rules, so that the draft, when transmitted for the consideration of Government by the commissioner with whom it may originate, may be accompanied by the observations of all the commissioners.

# LAND REVENUE.

## ENDOWMENTS AND ESCHEATS.

### TABLE OF ENACTMENTS.

| Original Regulation or Act. | Paras. in Consolidation. | REMARKS. |
|---|---|---|
| 1810. XIX. ii. | 1 | Part omitted under sec. xvi., Reg. XVII., 1816. |
| iii. to viii. | 2 to 7 | |
| ix. | 8 | Part omitted under Act XXXVIII., 1837. |
| x. to xvi. | 9 to 15 | |
| 1816. XVII. xvi. | 16 | |
| xvii. | 17 to 21 | |
| xix. | 22, 23 | |
| 1837. XXXVIII. | | Rescinds part of sec. ix., Reg. XIX., 1810. |

# LAND REVENUE.

## ENDOWMENTS AND ESCHEATS.

1. The general superintendence of all lands granted for the support of mosques, Hindoo temples, colleges, and for other pious and beneficial purposes, is vested in the Boards of Revenue in the several districts subject to the control of those Boards respectively.—Reg. XIX., 1810, sec. ii.

2. It shall be the duty of the Boards of Revenue to take care that all endowments made for the maintenance of establishments of the above description be duly appropriated to the purpose for which they were destined by the Government or individual by whom such endowments were granted. In like manner, it shall be the duty of those Boards to provide, with the sanction of Government, for the due repair and maintenance of all such public edifices which have been erected, either at the expense of the former or present Government, or of individuals, and which either at present are or can conveniently be rendered conducive to the convenience of the community.—Reg. XIX., 1810, sec. iii.

3. In those cases, however, in which any of the buildings in question have fallen to decay, and cannot, from that or other causes, be conveniently repaired, or are not calculated, if repaired, to afford any material accommodation to the public, the Boards shall recommend that they be sold on the public account, or otherwise disposed of as may appear most expedient.—Reg. XIX., 1810, sec. iv.

4. Under the foregoing rules, it will of course be incumbent on the Boards of Revenue to prevent any lands which have been granted for the support of establishments of the above description from being converted to the private use of individuals, or appropriated in any other mode contrary to the intent and will of the donor; and likewise to prevent all public edifices from being usurped by individuals and falling into the possession and exclusive use of private persons.—Reg. XIX., 1810, sec. v.

5. Whenever the Boards of Revenue may be of opinion that any of the above-mentioned edifices require repair, they shall obtain the necessary estimates of the expense required for the execution of the work, and forward them to Government for its approval.—Reg. XIX., 1810, sec. vi.

6. The general superintendence of all nuzzool property or escheats is likewise hereby vested in the Boards of Revenue, who will inform themselves fully, through the channel hereafter mentioned, of all property of that description, and report to Government whether it should in their opinion be sold on the public account, or in what other mode it should be disposed of.—Reg. XIX., 1810, sec. vii.

7. To enable the Boards of Revenue the better to carry into effect the duties hereby intrusted to them, local agents shall be appointed in each zillah, subject to the authority, control, and orders of those Boards respectively.—Reg. XIX., 1810, sec. viii.

8. The collector of the zillah shall be ex officio one of those agents, with whom the Governor-General in Council will unite such other officers as may from time to time be judged expedient.—Reg. XIX., 1810, sec. ix.; Act XXXVIII., 1837.

9. Under the present provisions, it will of course be the duty of the agents to obtain full information from the public records, and by personal inquiries respecting all endowments, establishments, and buildings of the nature of those above described, and of all nuzzool property or escheats, and to report to the Board to whose authority those agents are respectively subject, any instances in which they may have reason to believe that the lands or buildings are improperly appropriated, being in all cases careful not to infringe any private rights, or to occasion unnecessary trouble or vexation to individuals.—Reg. XIX., 1810, sec. x.

10. The said agents will further ascertain and report the names, together with other particulars, of the present trustees, managers, or superintendents of the several institutions, foundations, or establishments above described, whether under the designation of Mootuwullee or any other, and by whom and under what authority appointed or elected, and whether in conformity to the special provisions of the original endowment and appropriation by the founder, or under any general rule or maxim applicable to such institutions and foundations.—Reg. XIX., 1810, sec. xi.

11. The local agents will also report to the superior Boards all vacancies and casualties which may occur, with full information of all circumstances, to enable the Boards to judge of the pretensions of the person or persons claiming the trust; particularly whether the succession have been heretofore by inheritance in the line of descent, or whether the successor have been in former instances elected, and by whom, or whether he have been nominated by the founder or his heir or representative, or by any other individual patron of the foundation, or by any officer or representative of Government, or directly by the Government itself.—Reg. XIX., 1810, sec. xii.

12. In those cases in which the nomination has usually rested with the present or former Government, or with a public officer, or of right appertains to Government, in consequence of no private person being competent and entitled to make sufficient provision for the succession to the

trust and management, it will be the further duty of the local agents to propose, for the approval and confirmation of the superior Board, a fit person or persons for the charge of trustee or manager and superintendent, duly attending to the qualifications of the person selected, and to any special provisions of the original endowment and foundation, and to the general rules or the known usages of the country applicable to such cases.—Reg. XIX., 1810, sec. xiii.

13. On the receipt of the report and information required by the preceding paragraph, the Boards of Revenue will either appoint the person or persons nominated for their approval, or will make such other provision for the trust, superintendence, and management, as may be right and fit with reference to the nature and conditions of the endowment, having previously called for any requisite further information from the local agents.—Reg. XIX., 1810, sec. xiv.

14. Nothing herein contained shall be construed to preclude any individual who may conceive that he has just grounds of complaint on account of any orders which may be passed by any of the above-mentioned authorities, with respect to the appropriation of any lands or buildings of the nature of those above described, from suing, in the mode and form prescribed by the Regulations, where Government or public officers are parties; or under the general provisions of the Regulations, if the suit be brought against a competitor or other private person for the recovery thereof in the regular course of law, or for compensation in damages for any loss or injury supposed to have been unduly sustained by him.—Reg. XIX., 1810, sec. xv.

15. It is to be clearly understood, that the object of the present rules is solely to provide for the due appropriation of lands granted for public purposes agreeably to the intent of the grantor, and not to resume any part of the produce of them for the benefit of Government. In like manner, it is fully intended, that all buildings erected by the former or present Government, or by individuals for the convenience of the public, should be exclusively appropriated to that purpose, with the exception of such as have fallen to decay, and cannot from that, or any other cause, be conveniently repaired, or which, under existing circumstances, can no longer contribute to the accommodation of the community. —Reg. XIX., 1810, sec. xvi.

16. The general superintendence of all lands assigned as endowments for the maintenance of bridges, serays and kuttras, shall be vested in the Board of Revenue, under the same rules as are provided in the preceding paragraphs in respect of lands given as endowments for pious and beneficial purposes.—Reg. XVII., 1816, sec. xvi.

17. The superintendents of police shall exercise a general control over the public roads, bridges, serays and kuttras, within the limits of their respective jurisdictions.—Reg. XVII., 1816, sec. xvii., cl. 1.

18. Whenever the local magistrates may be of opinion that any works of the description specified in the preceding paragraph are necessary in the cities or zillahs subject to their authority, they shall communicate their sentiments on the subject to the superintendent of police, instead of addressing themselves directly to Government.—Reg. XVII., 1816, sec. xvii., cl. 2.

19. On receipt of communications of the description above mentioned, the superintendents of police shall consider, not merely the local advantages which may attend the proposed works, but likewise their tendency to facilitate the communications between the several districts, and their general utility, whether in the promotion of the commercial or common interests of the country at large.—Reg. XVII., 1816, sec. xvii., cl. 3.

20. The superintendents of police shall likewise ascertain how far the labour of the convicts confined in the several districts within their respective jurisdictions can be employed in the execution of the proposed works, without withdrawing them from other works of equal or greater utility.—Reg. XVII., 1816, sec. xvii., cl. 4.

21. The several Zillah and City Magistrates shall furnish the superintendents of police with such information as may be required by those officers in regard to the employment of the convicts and the state of the public works.—Reg. XVII., 1816, sec. xvii., cl. 5.

22. In cases in which the superintendents of police may be of opinion, whether on consideration of reports from the local magistrates, or from other sources of information, that any public work, of the description specified in paragraphs 17 to 21, should be undertaken at the expense of Government, they shall ascertain from the local authorities, and, as far as practicable, from professional persons, the expense to which Government would be subject in the execution of the proposed works; and shall submit a full and comprehensive report on the subject to Government, containing the necessary information in regard to the utility of the work, together with an estimate of the probable expense attending its execution.—Reg. XVII., 1816, sec. xix, cl. 1.

23. In submitting reports of the above description, the superintendents of police shall be careful to ascertain whether any means can be devised for defraying the expense of the proposed works otherwise than from the general funds of Government, and they will refrain from recommending any expensive undertakings, except in cases which may promise to be attended with more than ordinary convenience and advantage.—Reg XVII., 1816, sec. xix., cl. 2.

# LAND REVENUE.

## PENSIONS.

### TABLE OF ENACTMENTS.

| Original Regulation or Act. | Paras. in Consolidation. | REMARKS. |
|---|---|---|
| 1793. XXIV. | | |
| ii. to iv. | 1 to 3 | |
| v. to viii. | | Extinct. |
| ix. to xiii. | 4 to 8 | |
| xiv. | 45 | Addition from sec. iv., Reg. XI., 1813. |
| xv., xvi. | | Rescinded by cl. 1, sec. v., Reg. XI., 1813. |
| xvii. | 9 | |
| 1795. XXXIV. | | |
| ii. to x. | 10 to 18 | |
| xi. | 45 | Addition from sec. iv., Reg. XI., 1813. |
| xii., xiii. | | Superseded by sec. v., Reg. XI., 1813. |
| xiv. | 19 | |
| 1803. XXIV. | | |
| ii. to xii. | 20 to 31 | |
| xiii. | 45 | Addition from sec. iv., Reg. XI., 1813. |
| xiv., xv. | | Rescinded by cl. 1, sec. v., Reg. XI., 1813. |
| xvi. | 32 | |
| 1805. XII. xxx. | 34 | |
| 1806. XXII. | | |
| ii. to v. | | Extinct. |
| vi. to xii. | 35 to 41 | |
| 1813. XI. ii., iii. | 42 to 44 | |
| iv. | 45 | Incorporated with sec. xiv., Reg. XXIV., 1793. |
| v. 1. | | Rescission. |
| 2, 3. | 46, 47 | |
| vi. | 48 | |
| 1817. VI. ii. | 33 | |

# LAND REVENUE.

## PENSIONS.

### *Bengal, Behar, and Orissa.*

NOTE.—The original rules for settling claims to pensions, being now obsolete, have been omitted.

1. All pensions received by virtue of sunnuds granted previous to the Company's accession to the Dewanny, or since granted with the sanction of Government, shall be continued during the lives of the grantees. In instances in which the amount received may have been less than the amount specified in the sunnud, the former only is to be continued as heretofore.—Reg. XXIV., 1793, sec. ii.

2. No pensions received without a sunnud, or under sunnuds granted since the Company obtained the Dewanny, without the sanction of Government, shall be continued, unless the persons receiving the pensions be real objects of charity, or unless they received them before the commencement of the Bengal, Fusly, or Willaity year 1179 (in Bengal, Behar, and Orissa, respectively), and have since continued to receive them; in which case, the pensions heretofore received are to be continued during the lives of the present pensioners.—Reg. XXIV., 1793, sec. iii.

3. If the persons to whom the pensions were originally granted be deceased, the allowances are not to be continued to their heirs or descendants without the sanction of the Governor-General in Council; and no pension, after the death of the party now entitled thereto, shall be hereafter continued to his descendants without the like sanction, whether the grant be, according to the terms of it, hereditary or otherwise.—Reg. XXIV., 1793, sec. iv.

4. These rules are not to be considered to apply to any pensions excepting such as were heretofore paid by the landholders, and are now included in the jumma of Government, or which were received from the sayer abolished.—Reg. XXIV., 1793, sec. ix.

5. The collectors, on receiving intimation of the decision of the Board of Revenue, for a pension not exceeding fifty rupees per annum, or on being informed of the Governor-General in Council having ordered the continuance of pensions of a larger amount referred to him, shall deliver to the party entitled to the pension adjudged a certificate stating the amount of the pension, the title of the party thereto during his or her life, the ground of such title, and whether admitted by the Board of Revenue, or by the Governor-General in Council, with the date of such admission.—Reg. XXIV., 1793, sec. x.

6. A similar certificate is also to be given for all such pensions as may have been authorized by the Governor-General in Council, and for which certificates may not have been already granted.—Reg. XXIV., 1793, sec. xi.

7. The collectors, at the time of granting the certificates ordered in the two preceding paragraphs, are to number and register them in an English and Persian register to be kept for this purpose; and they are to be careful to note therein, also, such personal identifications of the parties receiving the certificates, as may detect any future attempt to transfer them to others.—Reg. XXIV., 1793, sec. xii.

8. The annual amount of the pensions is to be issued in quarterly proportions, viz., on the last day of the third, sixth, ninth, and twelfth months of the Bengal, Fusly, and Willaity years, respectively, for the preceding three months.—Reg. XXIV., 1793, sec. xiii.

9. The pensions and allowances to which these rules relate being gratuitous, the determining upon the continuance or discontinuance of them under the rules prescribed is reserved to the Board of Revenue, and the Governor-General in Council, and claims to such pensions and allowances are declared not cognizable in any Court of Judicature; but if a collector, or any person entrusted with the payment of pensions, shall withhold from any pensioner the pension to which he or she may be entitled, in virtue of a certificate granted under paragraphs 5 and 6, the collector or person withholding the pension shall be liable to be sued for such act in the Dewanny Adawlut of the zillah or city in which the pension may be payable. The Court, provided proof be made to its satisfaction that the complainant conformed to the rules herein prescribed to pensioners respecting the receipt of their pensions, and the person complained against cannot show good and sufficient cause, to the satisfaction of the Court, for having withheld the pension, the Court is to order it to be discharged, and compel the collector or other person by whom the pension may have been withheld to pay to the complainant such sum for costs as may appear to it equitable.—Reg. XXIV., 1793, sec. xvii.

*Benares.*

10. The pensions under the heads of maash and rozeena, sanctioned by the Governor-General in the year 1781, amounting to Benares sicca rupees 33,296. 7 annas, having been originally granted, either wholly or in part, as indemnifications for ayma or other lands resumed under the native Government, are not to be liable to resumption on the death of the persons who now receive them, notwithstanding that such resumption made part of the original order issued for the confirmation of them, but are to be considered as property, and are to descend to the heirs of the present and future receivers, and are declared liable to be sued for and inherited in the same manner as other property.—Reg. XXXIV., 1795, sec. ii.

11. The second class of pensions payable from the treasury consist of allowances granted in 1781 by the Governor-General to certain persons who represented themselves to have been landholders in the zemindary of Benares, and whom it was then intended to reinstate. Agreeably to the orders of the Governor-General in Council, under date the 11th of April, 1788, no part of these pensions are to be continued to the heirs of the persons now in the enjoyment of them, without his special sanction.—Reg. XXXIV., 1795, sec. iii.

12. Besides the pensions noticed in the preceding paragraph, there are others payable from the moolky treasury, which were heretofore paid by the aumils in their several pergunnahs, and for the amount of which they received credit in their accounts of the revenue; and also certain other miscellaneous allowances to individuals, receivable partly from Government's and partly from the moolky treasury, the continuance of all which depend on the conditions and limitations under which they were severally granted. But it is to be considered as a general rule, that the collector is to report to the Board of Revenue the death of all pensioners whose pensions are receivable either from the Government's or the moolky treasury, with the circumstances and conditions of the original grant, and the several orders that may have been subsequently passed on the subject. The Board of Revenue are to submit this report, with their sentiments on the case, to the Governor-General in Council, who will thereon issue such orders as may be applicable respecting the continuance or resumption of each particular pension or allowance.—Reg. XXXIV., 1795, sec. iv.

13. The cauzy and mufty of Benares having always received khelauts at the two Eeds, or annual Mahomedan festivals, denominated the Eedyn, the fixed expense of such khelauts is to be defrayed by the collector in the usual manner.—Reg. XXXIV., 1795, sec. v.

14. The sixth class of pensions consist of the allowances granted by the order of the Governor-General in Council of the 11th of February, 1791, and paid from the Fusly year, 1200 (1792-3), to such of the persons who formerly received pensions from the sayer, as from indigence, age, or helplessness, were deemed objects of real charity, under tusheeas or certificates, specifying that such pensions were to cease on the death of the holders. That this fund may continue to be faithfully applied to its original object, by being appropriated solely to the relief of those natives and settled inhabitants of the district of Benares who, from age, sex, or infirmity, shall be unable to provide for themselves or earn a livelihood by their labour, it shall be the duty of the collector of Benares to report immediately to the Board of Revenue the demise of every pensioner on this list, and to recommend the transfer of the pension, wholly or in part, to one or more proper objects. The Board are to submit this recommendation to the Governor-General in Council, with their opinion on it; and in the event of its being approved by him, they are to order the collector to grant a tushea or certificate for the pension, under his seal and signature, bearing date from the demise of the last holder. This certificate is to specify the sex and age of the party on whom the pension may be conferred, and the motive for bestowing it on him or her, with a provision that it is to be continued only during the natural life of the holder. The aggregate of the pensions specified in this paragraph is not to be increased beyond the present amount of them, excepting by order of the Governor-General in Council.—Reg. XXXIV., 1795, sec. vi.

15. Certain charitable allowances are likewise defrayable from the religious offerings made at the temple of Bindabashnee near to Mirzapoor, the distribution of which (as hitherto made to the parties entitled to receive it under the authority of the native judge) is to be continued as formerly, with this alteration, that the distribution is to be made, under the orders of the Board of Revenue and the Governor-General in Council, by the collector, who is to be held responsible for the proper dispensation of the charity, agreeably to the established rules for the management of it. If any of the parties interested in this fund shall deem themselves aggrieved by the orders of the collector, they may represent the circumstances to the judge of the Dewanny Adawlut, who is to forward the petition to the Governor-General in Council, who reserves to himself the power of passing such determination on the petition as may appear to him proper.—Reg. XXXIV., 1795, sec. vii.

16. For every pension which may be hereafter granted by the Governor-General in Council, or that may be renewed on the demise of a pensioner, and which may be issuable from either of the before-mentioned treasuries at Benares, the collector shall deliver to the party by whom the pension

is to be received, a certificate, stating the amount of the pension, the title of the party thereto during his or her life, the ground of such title, and the date of the grant.—Reg. XXXIV., 1795, sec. viii.

17. The collector is to keep a separate list of all pensions paid under this Regulation, and is to number and register the certificates or other sunnuds and vouchers under which they are held, in a register in the English and Persian languages to be kept for this purpose; and he is to be careful to note therein such personal identifications of the parties receiving the pensions as may detect any future attempt to transfer them to others.—Reg. XXXIV., 1795, sec. ix.

18. The annual amount of the pensions is to be issued in monthly proportions, agreeably to the practice which has hitherto prevailed in the province.—Reg. XXXIV., 1795, sec. x.

19. The determining upon the continuance of the pensions and allowances to which these rules relate being provided for, in respect to each class, under the rules prescribed in the several paragraphs in which they have been successively noticed, all claims to such pensions and allowances, with the exception of those specified in paragraph 10, are declared not cognizable in any Court of Judicature. But if a collector, or any person intrusted with the payment of pensions, shall withhold from any pensioner the pension to which he or she may be entitled, the collector, or person withholding the pension, shall be liable to be sued for such act in the Dewanny Adawlut of the jurisdiction in which the pension may be payable; and provided proof be made, to the satisfaction of the Court, that the complainant conformed to the rules herein prescribed to pensioners respecting the receipt of their pensions, and the person complained against cannot show good and sufficient cause, to the satisfaction of the Court, for having withheld the pension, the Court is to order it to be discharged, and compel the collector, or other person by whom the pension may have been withheld, to pay to the complainant such sum for costs as may appear to it equitable.—Reg. XXXIV., 1795, sec. xiv.

*Ceded Provinces.*

20. Pensions which may have been granted by the late Government, either wholly or in part, as indemnifications for altumgah, ayma, or other lands (held by sunnuds conferring a right in perpetuity) resumed by such Government, shall not be liable to resumption on the death of the persons who now receive them, notwithstanding that such resumption made part of the original order issued for the confirmation of them; but are to be regarded as property, and are to descend to the heirs of the present and future receivers, and are declared liable to be sued for, and inherited in the same manner as other property.—Reg. XXIV., 1803, sec. ii.

21. Pensions which may have been, in like manner, granted as an indemnification for lands resumed by the late Government, held only under a life tenure, shall be continued during the lifetime of the persons who were in receipt of them at the time of the cession, whether they be the original grantees or their heirs.—Reg. XXIV., 1803, sec. iii.

22. The cauzies and mufties of the principal cities having always received khelauts or shawls at the two Eeds or Mahomedan festivals, the expense thereof is to be defrayed by the judge and magistrate in the usual manner and at the customary rate.—Reg. XXIV., 1803, sec. iv.

23. Pensions which may have been granted by the late Government to the indigent, aged, or helpless, under tusheeas, or certificates, specifying that such pensions were to cease on the demise of the holders, shall be continued to the persons who received them at the period of the cession, during their respective lives, whether they be the original grantees or not; and notwithstanding that such pensions may have been granted by the aumils, provided they were regularly charged in the aumils' accounts, and admitted, or not struck off, by the late Government, they shall, in like manner, be continued to the present receivers, should it appear that they have been in the uninterrupted receipt thereof during a period of three years prior to the cession, or for such other period of time as, from the circumstances of the case and the situation and condition of the claimants, may reasonably constitute a prescriptive right to the continuance of the pension.—Reg. XXIV., 1803, sec. v., cl. 1.

24. Where a claim may be preferred to a pension which shall not have been paid to the claimant for a period of three years antecedent to the cession, and the collector may be of opinion that the claim is of such a nature as to merit the consideration of Government, he shall submit the proceedings on the subject of such claim to the Board of Revenue for the orders of the Governor-General in Council, whatever may be the amount of the claim.—Reg. XXIV., 1803, sec. v., cl. 2.

25. Pensions granted to fakeers and other religious persons, for the purpose of lighting mausoleums or mosques, or for that of repairing them, as also to enable them to perform their religious ceremonies usual in the Mohurrum, shall be continued; but pensions of this description are not to be considered as of a personal nature, and the collector shall be responsible for their being applied to the purposes for which they were bestowed.—Reg. XXIV., 1803, sec. vi.

26. Where written tusheeas, certificates, or other deeds, cannot be produced, the prescriptive right arising from long receipt shall entitle the claimant to a continuance of the pension.—Reg. XXIV., 1803, sec. vii.

27. In fixing the sum to be paid to the pensioners, the collector is not to be guided by the amount that may be stated in their respective certificates, but by the amount as may appear from the pergunnah or zillah accounts they were in the habit of receiving; provided such sum does not exceed that stipulated in the certificate, which shall in such case become the standard.—Reg. XXIV., 1803, sec. viii.

28. All pensions are to be issued from the zillah treasuries, and are on no account to be deducted in the pergunnah from any particular article of revenue arising to Government.—Reg. XXIV., 1803, sec. ix.

29. For every pension which may be hereafter granted by the Governor-General in Council, or that may be renewed on the demise of a pensioner, and which may be issuable from the before-mentioned treasuries in the ceded countries, the collector shall deliver to the party by whom the pension is to be received a certificate, stating the amount of the pension, the title of the party thereto during his or her life, the ground of such title, and the date of the grant.—Reg. XXIV., 1803, sec. x.

30. The collector is to keep a separate list of all pensions paid under this Regulation, and is to number and register the certificates, or other sunnuds and vouchers under which they are held, in a register, in the English and Persian languages, to be kept for this purpose; and he is to be careful to note therein such personal identifications of the parties receiving the pensions, as may detect any future attempt to transfer them to others.—Reg. XXIV., 1803, sec. xi.

31. The annual amount of pensions shall be paid in two equal payments, viz., at the khurreef and rubby-harvests.—Reg. XXIV., 1803, sec. xii.

32. The continuance or discontinuance of all pensions, except those set forth in paragraph 20, shall, after the death of the persons who now receive them, depend solely on the pleasure of Government, and shall not be subject to cognizance or determination in any Court of Justice. It shall be the duty of the collector to see that all just and authorized pensions are duly paid; and where any person may deem himself aggrieved by the act of the collector in respect to a pension, it shall be competent to him to sue for redress in the Civil Court of the district.—Reg. XXIV., 1803, sec. xvi.

33. The provision contained in paragraph 20 was not intended to authorize Courts of Civil Justice to take cognizance of claims to any pensions of the nature therein alluded to, the original title to which had not been previously recognized and confirmed by the revenue authorities or by Government, to whom the power of investigating and finally deciding on such original titles is exclusively reserved, but it was only intended by the said rule that pensions of the nature described in that paragraph, which had been or might be regularly sanctioned and confirmed by the proper revenue authorities, or by Government, should not be liable to resumption on the death of the persons authorized to receive them; but should be regarded as property descending to the heirs of the present and future receivers, and be liable to be sued for and inherited in the same manner as other property. —Reg. VI., 1817, sec. ii.

*Cuttack.*

34. The rules contained in Regulation XXIV., 1793, for deciding on the claims of persons to the continuance of pensions and allowances granted for religious purposes, shall be considered to be in force in the zillah of Cuttack. Provided, however, that in cases in which persons may have obtained pensions from the Government of Berar, under grants made previous to the 14th of October, 1803, such pensions shall be continued to the present incumbents, and will either descend to their heirs and successors, or will revert to Government on the decease of the present incumbents, as shall appear to the Governor-General in Council, on a consideration of the tenour of the grant and all the circumstances of the case, to be proper under paragraph 3. Provided likewise, that in cases in which persons shall have been in the actual receipt of pensions during a period of three or more years antecedent to the 14th October, 1803, under whatever authority, such pensions shall be continued to the present incumbents during their respective lives, but shall revert to Government on the decease of the present incumbents, unless any particular reasons shall appear to the Governor-General in Council to exist for continuing the said pensions to their heirs and successors. Provided also, that nothing herein contained shall be construed to authorize the resumption of the established donation for the support of the temple of Juggernauth, the charitable donation to the officers of certain Hindoo temples, called Anoochuttree, and the allowance granted for the support of the Hindoo temple at Cuttack, Seetaram Thakoor Baree.—Reg. XII., 1805, sec. xxx.

*General Rules.*

35. The several collectors are hereby required to furnish the civil auditor with any accounts or information which he may require respecting the pensions payable in their respective districts, and to adhere to any forms with which he may furnish them for preparing reports which may be required on the subject by that officer.—Reg. XXII., 1806, sec. vi.

36. Whenever a person in whose favour a pension, not exceeding the sum of fifty rupees in the provinces of Bengal, Behar, Orissa, and Benares, or the sum of one hundred rupees in the Ceded and Conquered Provinces, has been or may be adjudged, shall die, it shall be left to the Board of Revenue to determine, after receiving the report of the collector, whether the said pension, or any part of it, shall be continued to the heirs and successors of the deceased; but in the exercise of this power the Board of Revenue is hereby required to ascertain particularly the situation and circumstances of the party claiming the continuance of the pension, and not to comply with any applications of that nature, unless, on the ground of poverty or for other substantial reason, the party claiming the pension shall have a strong claim on the indulgence of Government. All applications for the continuance of pensions exceeding the sums above specified, are to be reported to the Governor-General in Council, for his orders.—Reg. XXII., 1806, sec. vii.

37. The collectors of the revenue are hereby required to make it a particular object of their attention, to ascertain whether the persons at present receiving pensions are the individuals to whom the pensions were originally adjudged; and in those cases in which it may appear that the individuals to whom the pensions were adjudged are dead, to discontinue the payment thereof, until it shall have been determined, under the preceding rules, whether the said pensions, or any part thereof, should be continued to their heirs and successors, or otherwise.—Reg. XXII., 1806, sec. viii.

38. It being declared that pensions, with the exception of those specified in paragraphs 20 and 21, and in the latter part of paragraph 34, are gratuitous, and that the continuance or discontinuance of them is to depend upon the pleasure of Government, the pensions at present received shall, in all practicable cases, be commuted for grants of waste land, to be held by the grantees and their posterity in perpetuity, free of assessment. Provided, however, that no pensions shall be so commuted during the life of the persons by whom they are at present received (in case they have been regularly investigated and adjudged), except with their own consent. Provided, also, that pensions granted for, and bonâ fide appropriated to the support of institutions, either of the Hindoo or Mahomedan religion, shall be continued for the support of such institutions; unless the present incumbents or their successors shall, of their own free will and accord, agree to accept grants of waste lands, to be held free of assessment under a permanent tenure, in lieu of the said pensions. Provided, moreover, that no pensions which are declared to be hereditary, either by the terms of the grant or by any existing Regulation, shall be so commuted without the consent of the present pensioners or their successors.—Reg. XXII., 1806, sec. ix.

39. Whenever a pensioner may die, or may be desirous of commuting the pension received by him for a grant of waste land, it shall be the duty of the collector to ascertain and report where lands capable of cultivation, and conveniently situated with reference to the person to whom they are to be granted, can be obtained for that purpose. If it be intended to make the proposed grant within the limits of the district in which the pension may have been hitherto paid, the collector will, of course, have ample means of obtaining the necessary information on the subject from his own records and through the channel of his own officers. If it be intended to make the proposed grant in any other district, the collector shall apply to the collector of that district for the necessary particulars on the subject; and, in either case, shall report the result to the Board of Revenue.—Reg. XXII., 1806, sec. x.

40. Whenever the Board of Revenue may be of opinion, on a consideration of the reports above noticed, and of any further information which they may require from the collectors, that it would be advisable, under the provisions and restrictions stated in the two preceding paragraphs, to commute any of the pensions at present receivable for grants of waste land (whether such pensions exceed or fall short of the sums specified in paragraph 36), they shall report their sentiments on the subject to Government, accompanied with the draft of a sunnud for the grant in question, to be signed, if approved, by the chief secretary of Government, or by the secretary in the revenue and judicial department, by order of the Governor-General in Council; in framing which grants, the Board of Revenue shall particularly attend to the purposes for which the grants are made, and to the wishes of the grantees in regard to the form and title of the deeds.—Reg. XXII., 1806, sec. xi.

41. In ordinary cases, the quantity of land shall be such, that the annual net rent produce of it, when brought into cultivation, may be equivalent to the annual amount of the pension. The Governor-General in Council, however, reserves to himself the power of increasing or diminishing that quantity, as the situation of the parties and other circumstances may suggest. The Governor-General in Council will likewise authorize, in addition to such grants of land, the payment of a sum of money to enable the grantee, with greater facility, to bring the lands into cultivation. Provided, however, that such sums shall not, in any case, exceed the amount of the pension in commutation of which the land has been granted for one year.—Reg. XXII., 1806, sec. xii.

42. The payment of pensions generally shall be stopped from and after the 1st of October next, until the individuals by whom they may have been hitherto received shall prove, to the satisfaction of the Board of Revenue, through the medium of the collector of the district in which such individuals reside, that they were the original grantees, and as such adjudged entitled to the pensions hitherto

received by them under the general Regulations, or that they have been regularly declared entitled to succeed to the enjoyment of the said pensions. Provided, however, that this rule shall only be considered applicable to pensions of the description of those specified in Regulation XXIV., 1793; Regulation XXXIV., 1795; Section XXX., Regulation XII., 1805; and Regulation XXIV., 1803; and to pensions granted to natives lately in the service of Government for their subsistence, and to such as were heretofore issued from the judicial and commercial departments, but have been lately ordered to be paid by the collectors of the land revenue; and shall not be considered to extend to stipends or pensions payable under existing treaties, or in conformity to arrangements adopted in the political and military departments.—Reg. XI., 1813, sec. ii.

43. It shall be the duty of the collectors, in making the revision above prescribed of the pension list of their respective districts, to prepare an exact register of the individuals who, on such revision, may be deemed entitled to a continuance of the pensions hitherto received by them, in such form as may be deemed best calculated to identify the different individuals, and according to such instructions as they may receive on this point, for their guidance, from the Board of Revenue.—Reg. XI., 1813, sec. iii., cl. 1.

44. It shall likewise be the duty of the collectors to correct the said register carefully, as often as any pensions may revert wholly or in part to Government, or whenever other individuals than those by whom the pensions are at present received shall be adjudged entitled to the reversion of them.—Reg. XI., 1813, sec. iii., cl. 2.

45. All persons receiving pensions exceeding fifty rupees per annum are to attend the collectors in person at the stated periods, to receive the amount of their respective pensions; and the collectors are prohibited from issuing any pensions excepting to the parties personally, unless they shall be disabled from attending by illness or other sufficient cause, of which satisfactory proofs shall be exhibited. The collectors, on being satisfied of the inability of the parties to attend in person, are permitted to issue the pensions to their authorized vakeels; but they are to take due precautions to prevent impositions after the death of the pensioners, and in the event of any pension not being claimed within six months after it may become payable, they are to ascertain whether the party who received it be deceased, and report accordingly. For the accommodation, however, of individuals, the payment of any authorized pensions will be transferred from one district to another, on the application of the party entitled to receive it, in cases in which no public inconvenience shall appear to attend the adoption of that arrangement.—Reg. XXIV., 1793, sec. xiv.; Reg. XXXIV., 1795, sec. xi.; Reg. XXIV., 1803, sec. xiii.; Reg. XI., 1813, sec. iv.

46. Persons entitled to pensions not exceeding fifty rupees per annum shall attend once in each year, that is, on the issue of the first quarterly payment, at the cutcherries of the collectors, for the purpose of identifying themselves by reference to the registers ordered to be kept by paragraph 43, and by such other inquiries as the collectors may deem it necessary to make, in order to guard against frauds in the payment of such pensions. Provided, however, that in cases in which the collectors may be satisfied, after making the fullest inquiries possible on the subject, that the pensioners are actually precluded by sickness or infirmity from attending in person, or that they are women who, according to the usages of the country, do not ordinarily appear in public, the first quarterly payment shall be issued to any person duly authorized to receive the amount on the part of such pensioners.—Reg. XI., 1813, sec. v., cl. 2.

47. The three remaining quarterly payments shall be made by any officer on the regular establishments to whom the collectors may think proper to commit the performance of this duty. It shall be the duty of the officer so selected to repair to the residence of the different pensioners; to ascertain fully whether the recorded pensioners be living; whether the persons claiming the different pensions be the persons actually authorized to receive them; to issue such pensions only as are indisputably receivable; to refer all questions of doubt to the collector for his orders; and finally, to report the result of the duty entrusted to him.—Reg. XI., 1813, sec. v., cl. 3.

48. With a view to the more effectual discovery and suppression of the abuses which have been committed with respect to the pension list, a reward shall be paid, equivalent to the amount of any pension for the period of six months, to any person who shall prove through the regular channel, to the satisfaction of the Board of Revenue, that such pension is fraudulently or unduly received by the person enjoying the benefit of it.—Reg. XI., 1813, sec. vi.

# LAND REVENUE.

## ALLUVIAL AND DERELICT LANDS.

### TABLE OF ENACTMENTS.

| Original Regulation or Act. | Paras. in Consolidation. | REMARKS. |
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| 1825. XI. i. to v. | 1 to 9 | |
| 1847. IX. i. to ix. | 10 to 18 | |

# LAND REVENUE.

## ALLUVIAL AND DERELICT LANDS.

### *North-Western Provinces.*

NOTE.—The following Regulation was rescinded, so far as regards the Provinces of Bengal, Behar, and Orissa, by Act IX., 1847; consequently, it is now in force only in the North-Western Provinces.

1. In consequence of the frequent changes which take place in the channel of the principal rivers that intersect the provinces immediately subject to the presidency of Fort William, and the shifting of the sands which lie in the beds of those rivers, churs, or small islands, are often thrown up by alluvion in the midst of the stream, or near one of the banks, and large portions of land are carried away by an encroachment of the river on one side, whilst accessions of land are at the same time, or in subsequent years, gained by dereliction of the water on the opposite side; similar instances of alluvion, encroachment, and dereliction also sometimes occur on the sea-coast, which borders the southern and south-eastern limits of Bengal. The lands gained from the rivers or sea by the means above mentioned are a frequent source of contention and affray, and although the law and custom of the country have established rules applicable to such cases, these rules not being generally known, the Courts of Justice have sometimes found it difficult to determine the rights of litigant parties claiming churs or other lands gained in the manner above described. The Court of Sudder Dewanny Adawlut, with a view to ascertain the legal provisions of the Mahomedan and Hindoo laws on this subject, called for reports from their law officers of each persuasion, and on consideration of the reports furnished by the law officers in consequence, as well as of the decisions which have been passed by the Court of Sudder Dewanny Adawlut in cases brought before them in appeal which involved the rights of claimants to lands gained by alluvion, or by dereliction of rivers, or the sea, the Governor-General in Council has deemed it proper to enact the following rules for the general information of individuals as well as for the guidance of the Courts of Judicature; to be in force, as soon as promulgated, throughout the whole of the provinces subject to the presidency of Fort William.—Reg. XI., 1825, sec. i.

2. Whenever any clear and definite usage of shekust pywust, respecting the disjunction and junction of land by the encroachment or recess of a river, may have been immemorially established, for determining the rights of the proprietors of two or more contiguous estates, divided by a river (such as that the main channel of the river dividing the estates shall be the constant boundary between them, whatever changes may take place in the course of the river, by encroachment on one side and accession on the other), the usage so established shall govern the decision of all claims and disputes relative to alluvial land between the parties whose estates may be liable to such usage.—Reg. XI., 1825, sec. ii.

3. Where there may be no local usage, of the nature referred to in the preceding paragraph, the general rules declared in the following paragraphs shall be applied to the determination of all claims and disputes relative to lands gained by alluvion or by dereliction either of a river or the sea.—Reg. XI., 1825, sec. iii.

4 When land may be gained by gradual accession, whether from the recess of a river or of the sea, it shall be considered an increment to the tenure of the person to whose land or estate it is thus annexed, whether such land or estate be held immediately from Government by a zemindar or other superior landholder, or as a subordinate tenure, by any description of under-tenant whatever. Provided that the increment of land thus obtained shall not entitle the person in possession of the estate or tenure to which the land may be annexed to a right of property or permanent interest therein beyond that possessed by him in the estate or tenure to which the land may be annexed, and shall not in any case be understood to exempt the holder of it from the payment to Government of any assessment for the public revenue to which it may be liable under the provisions of Regulation II., 1819, or of any other Regulation in force. Nor if annexed to a subordinate tenure, held under a superior landholder, shall the under-tenant, whether a khoodkasht ryot, holding a mouroosee istimraree tenure at a fixed rate of rent per begah, or any other description of under-tenant liable by his engagements, or by established usage, to an increase of rent for the land annexed to his tenure by alluvion, be considered exempt from the payment of any increase of rent to which he may be justly liable.—Reg. XI., 1825, sec. iv., cl. 1.

5. The above rule shall not be considered applicable to cases in which a river, by a sudden change of its course, may break through and intersect an estate, without any gradual encroachment, or may by the violence of stream separate a considerable piece of land from one estate, and join it to another estate, without destroying the identity, and preventing the recognition of the land so removed. In such cases the land, on being clearly recognized, shall remain the property of its original owner.—Reg. XI., 1825, sec. iv., cl. 2.

6. When a chur, or island, may be thrown up in a large navigable river (the bed of which is not the property of an individual), or in the sea, and the channel of the river, or sea, between such island and the shore may not be fordable, it shall, according to established usage, be at the disposal of Government. But if the channel between such island and the shore be fordable at any season of the year, it shall be considered an accession to the land, tenure or tenures, of the person or persons whose estate or estates may be most contiguous to it, subject to the several provisions specified in paragraph 4, with respect to increment of land by gradual accession.—Reg. XI., 1825, sec. iv., cl. 3.

7. In small and shallow rivers, the beds of which, with the julkur right of fishery, may have been heretofore recognized as the property of individuals, any sand bank, or chur, that may be thrown up, shall, as hitherto, belong to the proprietor of the bed of the river, subject to the provisions stated in paragraph 4.—Reg. XI., 1825, sec. iv., cl. 4.

8. In all other cases, viz, in all cases of claims and disputes respecting land gained by alluvion or by dereliction of a river, or the sea, which are not specifically provided for by the rules herein contained, the Courts of Justice, in deciding upon such claims and disputes, shall be guided by the best evidence they may be able to obtain of established local usage, if there be any applicable to the case, or, if not, by general principles of equity and justice.—Reg. XII., 1825, sec. iv., cl. 5.

9. Nothing in these rules shall be construed to justify any encroachments by individuals on the beds or channels of navigable rivers, or to prevent zillah and city magistrates, or any other officers of Government, who may be duly empowered for that purpose, from removing obstacles which appear to interfere with the safe and customary navigation of such rivers, or which shall in any respects obstruct the passage of boats by tracking on the banks of such rivers, or otherwise.—Reg. XI., 1825, sec. v.

*Bengal, Behar, and Orissa.*

10. Such parts of the Regulations of the Bengal code as establish tribunals and prescribe rules of procedure for investigations regarding the liability to assessment of lands gained from the sea or from rivers by alluvion or dereliction, or regarding the right of Government to the ownership thereof, shall, from the date of the passing of this Act, cease to have effect within the provinces of Bengal, Behar, and Orissa; and all such investigations pending before the collectors and deputy collectors in the said provinces at the said date shall forthwith be discontinued; and that no measures shall hereafter be taken for the assessment of such lands, or for the assertion of the right of Government to the ownership thereof, except under the provisions of this Act.—Act IX., 1847, sec. i.

11. The expression "Province of Orissa" in this Act shall be taken to mean only so much of the province of Orissa as is subject to the Government of Bengal.—Act IX., 1847, sec. ii.

12. Within the said provinces it shall be lawful for the Government of Bengal, in all districts or parts of districts of which a revenue survey may have been or may hereafter be completed and approved by Government, to direct from time to time, whenever ten years from the approval of such

survey shall have expired, a new survey of lands on the banks of rivers and on the shores of the sea, in order to ascertain the changes that may have taken place since the date of the last previous survey, and to cause new maps to be made according to such new survey.—Act IX., 1847, sec. iii.

13. The approval of the revenue surveys of the following districts and parts of districts shall be deemed to have taken place on the undermentioned days, viz.:—

Of the district of Chittagong, on the sixth day of September, 1842.

Of the district of Behar, on the ninth day of November, 1844.

Of the district of Patna, on the twenty-second day of June, 1844.

Of the district of Shahabad, on the twenty-eighth day of November, 1846.

Of the district of Sarun, on the eighteenth day of February, 1847.

Of pergunnah Furkyah, in the district of Monghyr, on the nineteenth day of September, 1839.

Of the northern division of the province of Cuttack, on the twenty-fourth day of October, 1842.

Of the central division of the province of Cuttack, on the twenty-second day of February, 1843.

Of the southern division of the province of Cuttack, on the nineteenth day of October, 1842.

Of the district of Midnapoor, except Hidgellee and Tumlook, on the twelfth day of September, 1845.

Of Hidgellee and Tumlook, in the district of Midnapoor, on the fifth day of October, 1842.

Of the district of Cachar, on the fifth day of February, 1844.

Of Jynteeah and the pergunnahs of Chapgat, Echamuttee, Ittisamnuggur, and Bhurrun, in the district of Sylhet, on the fifth day of February, 1844.

Of the district of Gwalparah, on the twenty-fourth day of December, 1842.

Of the district of Luckinpore, on the tenth day of November, 1845.

Of the district of Seebpoor, on the eighth day of May, 1843.

And that the approval of the revenue surveys of districts or parts of districts which may be hereafter surveyed, shall be deemed to have taken place on such day as may be specified as the day of such approval in the Calcutta Government Gazette.—Act IX., 1847, sec. iv.

14. Whenever on inspection of any such new map it shall appear to the local revenue authorities that land has been washed away from or lost to any estate paying revenue directly to Government, they shall without loss of time make a deduction from the sudder jumma of the said estate equal to so much of the whole sudder jumma of the estate as bears to the whole the same proportion as the Mofussil jumma of the land lost bears to the Mofussil jumma of the whole estate; but if the Mofussil jumma of the whole estate, or of the land lost, cannot be ascertained to the satisfaction of the local land revenue authorities, then the said local revenue authorities shall make a deduction from the sudder jumma of the estate equal to so much of the whole sudder jumma of the estate as bears to the whole the same proportion as the land lost bears to the whole estate. And this deduction, with the reasons thereof, shall be forthwith reported by the local revenue authorities for the information and orders of the Sudder Board of Revenue, whose orders thereupon shall be final.—Act IX., 1847, sec. v.

15. Whenever on inspection of any such new map it shall appear to the local revenue authorities that land has been added to any estate paying revenue directly to Government, they shall without delay assess the same with a revenue payable to Government according to the rules in force for assessing alluvial increments, and shall report their proceedings forthwith to the Sudder Board of Revenue, whose orders thereupon shall be final.—Act IX., 1847, sec. vi.

16. Whenever on inspection of any such new map it shall appear to the local revenue authorities that an island has been thrown up in a large and navigable river liable to be taken possession of by Government under paragraph 6, the said local revenue authorities shall take immediate possession of the same for Government, and shall assess and settle the land according to the rules in force in that behalf, reporting their proceedings forthwith for the approval of the Sudder Board of Revenue, whose orders thereupon in regard to the assessment shall be final. Provided, however, that any party aggrieved by the act of the revenue authorities in taking possession of any island as aforesaid shall be at liberty to contest the same by a regular suit in the Civil Court.—Act IX., 1847, sec. vii.

17. Nothing in this Act contained shall affect suits for the assessment, or for establishing the right of Government to the ownership, of alluvial lands now pending in appeal before the Special Commissioners, or such as, having been decided by the lower resumption Courts, are at the date of the passing of this Act open to appeal to the Court of the Special Commissioners according to the laws heretofore in force, and that all such cases shall be dealt with as if this Act had not been passed.—Act IX., 1847, sec. viii.

18. Except as regards the proprietary right to islands, no suit or action in any Court of Justice shall lie against the Government, or any of its officers, on account of anything done in good faith in the exercise of the powers conferred by this Act.—Act IX., 1847, sec. ix.

# LAND REVENUE.

## ACQUIREMENT OF LAND FOR PUBLIC WORKS.

### TABLE OF ENACTMENTS.

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# LAND REVENUE.

## ACQUIREMENT OF LAND FOR PUBLIC WORKS.

1. Whenever it may appear necessary or expedient to appropriate the whole or part of any individual's landed estate, or other immovable property, or anything thereunto belonging, for the construction of a public road, building, canal, drain, gaol, or for any other public purpose, then, if there be any hinderance to the purchase of the said property by private bargain, the officer entrusted with the execution of such public work, or any other officer whom the Governor-General in Council may direct, shall proceed to the spot and erect a flag thereon, causing, in cases in which it may be proposed to take land, the boundaries of the land so required to be distinctly marked out; but taking care, at the same time, to do as little injury as possible to the property: he shall then stick up, in some convenient and conspicuous place in the vicinity, a notice of the land or other property proposed to be taken, and the purpose for which it is required, and shall make proclamation by beat of drum, as well on the spot as in the nearest bazar, gunge, or village, calling upon any person or persons claiming a right or interest in the land or other property, to appear in person, or by an authorized agent, at a place to be specified in the notice and proclamation, on or before a given date, not being less than fifteen days, in order to make known the precise nature of the interest claimed, and the terms on which he or they may be willing to dispose of their respective rights and interests; or, if they object to the disposal thereof, to specify the same, through the proper authorities, for the information of Government, when the substance of all material information given in after such a notification shall be submitted by those authorities to the Governor-General in Council, together with a report of their sentiments on the case, and of the estimated value of the premises intended to be applied to a public purpose, and of the several interests attaching thereunto. —Reg. I., 1824, sec. ii.

2. If the person or persons having, or claiming to have, a right and interest in the land or other property required for a public purpose, or in any part of it, shall object to the disposal of the same, or shall demand an exorbitant consideration for the relinquishment of his or their interest, and the Governor-General in Council, after duly considering the objections urged and the demands made, shall notwithstanding deem it proper, on grounds of clear and urgent public expediency, that the property should be so appropriated, he will in either of the cases above mentioned order the election of arbitrators to ascertain and determine the just and full value of the whole of the property

intended to be applied to public use, including the rights of all persons holding a lawful interest therein according to the rules hereinafter contained.—Reg. I., 1824, sec. iii., cl. 1.

3. Provided also, that when any extensive public work shall have been commenced on under the orders of Government, it shall be competent to the Governor-General in Council, by an order in council, to delegate to any Board, Committee, or the like, the duty and power of determining on all objections to the disposal of individual properties which it may be considered necessary to appropriate for the purpose; and the Board or Committee so empowered shall be competent to issue the requisite orders for the appointment of arbitrators, for the purposes and in the manner hereinafter provided, without previous reference to Government.—Reg. I., 1824, sec. iii., cl. 2.

4. Whenever it may be requisite to have recourse to arbitration, for the purpose stated in the two preceding paragraphs, the following rules shall be observed in the appointment of the arbitrators, and in the conduct of their inquiries.—Reg. I., 1824, sec. iv., cl. 1.

5. Two persons of respectability shall be chosen to act as arbitrators on the part of Government, by the judge or magistrate, or collector of the district in which the land or other property required for public use may be situated, or such other officer as the Governor-General in Council may commission for the purpose of superintending the arbitration, and the party or parties claiming an interest in the premises proposed to be taken shall be called upon by the judge, magistrate, collector, or other officer aforesaid, to elect, within a reasonable time, to be fixed by such officer, two persons to act as arbitrators on his or their part. If there be several claimants, and they cannot agree, within the required period, in the election of persons to act as arbitrators, on their behalf, then and in that case each of them shall nominate one person, whom he may desire to act on his behalf, and the judge, magistrate, collector, or other officer aforesaid, shall choose by lot out of the persons so nominated by the parties, or any of them, two persons to act as arbitrators on behalf of the claimants. If only two persons shall be so nominated, they shall be the arbitrators on behalf of the claimants, whether the whole of the claimants may or may not have been concerned in their nomination. If only one person shall be so nominated, then only one of the persons selected to act as arbitrators on the part of Government shall be employed on the duty: if the claimants shall refuse or neglect to make any nomination within the required period, then the judge, magistrate, collector, or other officer, shall and may select two impartial persons, residents of the pergunnah or other local division, to arbitrate the matter between Government and the parties.—Reg. I., 1824, sec. iv., cl. 2.

6. The arbitrators chosen as above shall be required by the judge, magistrate, collector, or other officer aforesaid, solemnly to promise that they will faithfully and impartially discharge the trust reposed in them, to which effect they shall sign a solemn declaration. But no corporal oath shall be administered to them.—Reg. I., 1824, sec. iv., cl. 3.

7. As soon as the said obligation shall be signed, and before they proceed to any other duty, the arbitrators shall be required by the judge, magistrate, collector, or other officer aforesaid, to appoint an umpire for the decision of any points whereon they may differ in opinion, and the voices on each side may be equal. If the arbitrators cannot agree in the selection of an umpire, the judge, magistrate, or other officer commissioned as aforesaid, shall be authorized to choose some respectable and impartial person to act as such.—Reg. I., 1824, sec. iv., cl. 4.

8. In cases wherein the arbitrators may differ in opinion, if the voices on each side shall be equal, the decision of the umpire on the point of difference shall be conclusive. In all other cases, the opinion of the majority of arbitrators shall determine the award.—Reg. I., 1824, sec. iv., cl. 5.

9. The judge, magistrate, collector, or other officer commissioned as aforesaid, shall be competent to exercise towards the arbitrators and umpire, chosen as above, such powers and authority, for the purpose of securing their attendance and the due completion of their award, as the Courts of Judicature may or shall legally exercise towards persons summoned as witnesses before them for the purpose of compelling them to attend and give evidence. It shall further be competent to the udge, collector, or other officer commissioned as aforesaid, in the event of any unnecessary delay on the part of arbitrators in determining any point referred to them, to call upon them to make their ward within a specified time, and in default thereof to refer the matter to the umpire for his decision.—Reg. I., 1824, sec. iv., cl. 6.

10. The arbitrators shall hold their inquiry under the general superintendence of the judge, magistrate, collector, or other officer commissioned as aforesaid.—Reg. I., 1824, sec. iv., cl. 7.

11. The judge, magistrate, collector, or other officer so commissioned, shall afford to the arbitrators all necessary aid and support for enabling them to accomplish the object of their appointment. He shall, on the application of the arbitrators, summon, and is hereby authorized to summon, any witnesses whom the arbitrators may call for, and whom the parties may not be able to produce before them without such process. He shall also cause the proper forms of oath to be administered to, or a solemn declaration in lieu thereof, to be executed by any witnesses whom the arbitrators may desire to examine upon oath or solemn declaration; or he may empower the arbitrators to administer such oath, or to cause the execution of such solemn declaration in lieu thereof, if the witness cannot with

convenience attend at the sudder station of the zillah. Any person giving intentionally and deliberately a false deposition on oath, or under a solemn declaration taken instead of an oath, in any case referred to arbitration as above, and upon a point material to the issue thereof, shall be held and considered to be guilty of perjury, and shall be liable to the penalties prescribed for that offence in the Regulations; and any person causing or procuring another person to commit the offence of perjury, as above described, is declared guilty of subornation of perjury, and punishable under the provisions of the said Regulations.—Reg. I., 1824, sec. iv., cl. 8.

12. When arbitrators may be appointed, it shall be the duty of the officer employed in the manner specified in paragraph 1, to lay before them a statement of all claims made to him under that rule, also to notify which of them remains unadjusted, and to furnish, upon requisition of the arbitrators, all information in his power as to the extent and boundaries of the land proposed to be taken, the claims attaching to it, the state of possession, and the like. Furthermore, in the event of any dispute arising on any point connected with the extent, boundary, present possession, manner of culture, or of other appropriation of the land, or any portion of it for the time being, it shall be competent to the said arbitrators to cause the land, or other property in question, or any part of it, to be measured in their presence, or otherwise in such manner as they may deem most desirable.—Reg. I., 1824, sec. v.

13. If the land required by Government be la-khiraj, or for such portion of the land as may be of that description, it shall be the duty of the arbitrators to determine in the first instance what consideration is in their opinion a fair value for the whole property proposed to be assumed or destroyed in the execution of the public work in hand, or which will otherwise be lost to the owners, or affected by reason of the appropriation by Government.—Reg. I., 1824, sec. vi., cl. 1.

14. If a dispute arise between the owner or owners of the la-khiraj tenure on one hand, and the cultivators or renters under him on the other, as to the proportion of such entire value which each should receive in exchange for the interest claimed or possessed by him, the arbitrators shall not enter into this part of the case, unless both or all the parties interested shall desire the adjustment of the points in dispute to be made by them at the time. So, likewise, if there be more claimants than one to the la-khiraj interest, and it shall be necessary to determine the mode in which the value of that interest is to be apportioned amongst the claimants, such apportionment shall not be made unless all the claimants sign a written agreement to abide by the arbitrator's adjustment of the same. Any award made by arbitrators, after agreement being signed by the parties at issue, shall have effect, and be considered as an award of Court to all intents and purposes; but if no award be made, in consequence of the parties not having agreed to abide by such a determination, it shall be open to any one of them to carry the point or points at issue before the Courts in the usual manner; and if the Government take the lands, tenements, or other property, on the terms fixed by the arbitrators, it shall be competent to the Court trying the case, upon due application being made, to order the whole or any part of the value paid by Government to be held in deposit, to answer an eventual decree; provided, however, that nothing herein contained shall be considered to warrant any alteration being made by any order or decree of Court in the rate of the consideration fixed by the arbitrators to be paid by the Government, or the issue of any orders affecting the possession that may have been assumed by its officers, or acts that may have been done by them in consequence of such arbitration.—Reg. I., 1824, sec. vi., cl. 2.

15. If the land proposed to be assumed for the purposes aforementioned be khirajee land, or for so much of it as may be of that description, it shall be the duty of the arbitrators to determine, first, the amount of the net rent which the sudder malguzar may derive from the land, as far as they can ascertain the same; secondly, the value of any other property or interest which the said malguzar may possess in, upon, or belonging to the land; and thirdly, the value of any property or interest which may be possessed by persons other than the sudder malguzar. They shall at the same time state the value of the net rent derived by the sudder malguzar; and it shall be competent to the Governor-General in Council to determine what proportion of the compensation due to that person for the loss of the said rent shall be made good, in the shape of an annual remission of revenue, and what shall be commuted for a payment in ready money, to be calculated at the rate assumed in the valuation of the arbitrators. In estimating the net rent, no deduction is to be made from the gross rental of the sudder malguzar on account of the Government revenue with which his estate may be assessed. And it shall be the duty of arbitrators in fixing the value of the net rent derived by the sudder malguzar from the land taken for public purposes, conjointly with the value of other interests possessed therein, so to regulate the two, that the whole shall constitute what would have been a fair value for the property, supposing it to have been la-khiraj, and held free of all burthen or encumbrance; and the arbitrators shall, in every case of this description, certify at the foot of their report that the above direction has been observed.—Reg. I., 1824, sec. vi., cl. 3.

16. Whenever any revenue deduction may be ordered, it will of course be passed in the revenue accounts to the credit of the mehaul on account of which it may be awarded by the arbitrators, in whosesoever possession the same may be. Should the proprietor of any other mehaul claim to

participate therein, it shall be open to him to prosecute his claim by suit in Court against the proprietor of the mehaul on account of which it may be paid; provided, however, that in case any litigation between the proprietors of different mehauls claiming to participate in the deduction awarded by arbitrators be submitted to their award, in the manner above provided for the case of la-khiraj lands, the same when made shall be binding, and have effect to all intents and purposes as a decree of Court. So, likewise, if there should arise a difference or dispute as to the manner and proportions in which the money compensation to be given by Government upon the occupation for public purposes of khirajee land shall be divided between the ryots and under-tenants, or between them and the Government malguzar, or between any other classes of persons claiming to participate; the course shall, in all such cases, be the same as is prescribed in the preceding paragraph, for the case of la-khiraj lands, which may have been taken possession of for public purposes by Government, and of disputes arising in the apportionment of the consideration adjudged to be paid in consequence. —Reg. I., 1824, sec. vi., cl. 4.

17. If the question of possession shall in any case be doubtful, or if there exist other grounds which, in the judgment of the arbitrators, render it improper to make immediate payment of the compensation awarded by them, or any part thereof, to any of the claimants, it shall be the duty of the arbitrators to certify the circumstance to the judge, magistrate, collector, or other officer, under whose directions they may act, and in such case the amount which they may propose to reserve shall be invested in Government securities, and held in deposit until one of the claimants shall obtain an order of Court for the payment of the same. But no dispute touching the property or possession of land, or other property required for public purposes, nor any flaw in the title of the party by or from whom it may be transferred to Government on the award of arbitrators, shall be allowed to defeat or disturb the title acquired by Government; and if any person or persons shall sue in any Court of Judicature to recover from Government damages or compensation for the loss of any such land or other property, such person or persons shall be nonsuited with costs; provided also, that in cases wherein the possessor and ostensible proprietor of any land or other property required for any public purpose shall have consented to transfer the same to Government, on terms mutually agreed to, it shall be competent to the Governor-General in Council, or any board or committee authorized by him in that behalf, to cause proclamation to be made in the manner prescribed in paragraph 1, requiring all persons claiming any right, title, or interest in such land or other property, to prefer their claims on or before a certain date; and after such proclamation shall have been made, and the land or other property shall have been transferred to Government, any claim or suit to recover the same, or to obtain from Government compensation for the loss thereof, which may be preferred in any Court of Judicature, shall be dismissed with costs, unless the claim shall have been preferred as required by the said proclamation. But nothing herein contained shall affect the liability of the party, who may receive the value of any land or other property transferred to Government, without having a good title to the same.—Reg. I., 1824, sec. vi., cl. 5.

18. On the close of the inquiry the arbitrator or umpire shall deliver to the officer commissioned as aforesaid to superintend the arbitration, a full and specific report and award upon the point or points submitted to their arbitration, under their respective signatures, with a solemn declaration subscribed thereto, that the award so given is, to the best of their judgment, true and impartial; and, according to the evidence adduced before them, they shall, at the same time, deposit with the said officer the whole of their proceedings.—Reg. I., 1824, sec. vii., cl. 1.

19. The aforesaid officer shall transmit to the Governor-General in Council the report and award so delivered to him, with a report, stating the material points thereof, and his sentiments, how far the inquiry made by the arbitrators appears to have been conducted with fairness and impartiality, or otherwise; and the said officer shall be guided by the instructions of the Governor-General in Council in regard to the execution of the award, when the same shall have been approved by Government.—Reg. I., 1824, sec. vii., cl. 2.

20. No award made under these rules shall be liable to be reversed or altered, unless the same shall be open to impeachment on the ground of corruption or gross partiality, or shall extend beyond the authority given to the arbitrators; and such ground of impeachment shall be established on a regular suit in the Adawlut.—Reg. I., 1824, sec. vii., cl. 3.

21. If, after the award has been given in by the arbitrators, and the Governor-General in Council shall have directed the premises to be appropriated for public purposes, the officer directed to occupy the same shall be opposed or impeded in taking possession, he shall apply to the magistrate of the district, to whom it shall and may be lawful to enforce the surrender of the said premises.—Reg. I., 1824, sec. vii., cl. 3.

22. In cases referred to arbitration, under the provisions of the preceding paragraphs, any necessary expense which may attend the inquiry of the arbitrators, whether for the diet of witnesses or otherwise, shall be paid by Government.—Reg. I., 1824, sec. vii., cl. 5.

23. The rules contained in the preceding paragraphs shall not be held to be applicable to the

removal from the bed or banks of navigable rivers or streams, of trees, broken boats, timbers, or the like, which may obstruct, or be likely to obstruct the navigation of such rivers and streams. Such obstructions may be summarily removed by the magistrates of the several cities and zillahs, or by such other officer or officers as the Governor-General in Council may by an order in council vest with the superintendence of any such river or stream, under the laws and usages applicable to the removal of nuisances, and such special provisions as may hereafter be enacted.—Reg. I., 1824, sec. viii.

24. Since the revenue derived by Government from salt, within the provinces of Bengal, Orissa, and Cuttack is realized in the form of a monopoly of the manufacture, under a system established in the years 1780 and 1781, and since, in the prosecution of this system, Government have been in the occupation of certain lands adapted to the manufacture, and have all along exercised the privileges of assuming what has appeared to be fitted for the purpose, the same being at the time of such occupation wholly, or for the most part, unfit for cultivation, or for yielding profit by any other means; the above provisions shall not be considered to apply to the case of these lands, except in so far as they may be specially declared to extend to them in this or any future Regulation. —Reg. I., 1824, sec. ix., cl. 1.

25. An investigation having been instituted, under the orders of the Governor-General in Council, with a view, first, to determine the character of the remissions of the land revenue allowed annually, from the time of the establishment of the present system of manufacture, to certain zemindars in the districts comprised in the salt agencies of the Twenty-four Pergunnahs, Jessore, Bhulooah, and Chittagong; and secondly, to settle the claims of the zemindars and the officers of the salt department at the agencies in question respectively, on each other. The following declarations and rules, calculated for all results of such investigation, are hereby made and enacted, and the Courts of Civil Judicature, the officers of the salt and land revenue departments, and all other public authorities, are to be by them guided in their determination of any question that may arise as to the right of the officers of the salt department to occupy salt lands, or other lands required for the purposes of the salt manufacture, and the rate of compensation to be paid for the same.—Reg. I., 1824, sec. ix., cl. 2.

26. The principle upon which remissions were originally made, from the jumma of zemindars, on account of khalary rents, or the like, upon the assumption of the salt mehaul, is hereby declared to have been to relieve those to whom they were granted from an assessment upon assets, which were transferred to Government on the establishment of the system of exclusive manufacture, with the rights and interests attached to the possession of the mehaul.—Reg. I., 1824, sec. ix., cl. 3.

27. All zemindars or others, whose claims to remissions were allowed in the first instance, that is, on account of rents collected by them previously to the year 1188 B. S., shall be considered to fall within the class of land renters who received an abatement of what they then ceased to collect, upon the principle above laid down; consequently, it is hereby declared, that the sums remitted to them will be allowed in perpetuity.—Reg. I., 1824, sec. ix., cl. 4.

28. The collectors of land revenue, and the Board, are prohibited henceforward from receiving any applications to obtain credit in the land revenue collections for any amount claimed as due for khalary rent, and from allowing of any abatement or remission whatever from the land revenue jumma, except the specified remissions allowed on account of rents collected previously to 1188, or such other as may be hereafter ordered by the Governor-General in Council.—Reg. I., 1824, sec. ix., cl. 5.

29. Any land revenue engager who may prefer a claim to receive rent for khalaries now worked, or for what may be so henceforward, or for any that have been worked, and for which the rent of past years may be claimed to be due, shall be desired to make application to the salt agent to have the same adjusted on the principles declared hereafter.—Reg. I., 1824, sec. ix., cl. 6.

30. The remissions allowed on account of rents collected previously to 1188 will still be retained on the revenue books, and will be carried to the debit of the salt department; but the levy of khalary rents, bara cursa, or the like, from the molungees will be entirely discontinued, and the impost abolished from the commencement of the next salt year, save and except in cases wherein it may be otherwise specially ordered by the Governor-General in Council; and henceforward, any gomashtah or other person attempting to enforce the impost, or demanding it in any shape without special authority from Government, shall, on proof to the fact before the agent, be immediately dismissed.—Reg. I., 1824, sec. ix., cl. 7.

31. The levy of goorkatee by the officers of Government from the molungees, or of any other similar tax on the privilege of cutting jungle for fuel to be used in the manufacture of salt, shall, in like manner and with the like exceptions, be henceforward discontinued, whether the same be levied as an impost due to Government or otherwise.—Reg. I., 1824, sec. ix., cl. 8.

32. All future contracts for the delivery of salt in return for advances received shall, as far as practicable, specify distinctly the proportion of the aggregate price paid by Government, which may be allowed to cover the expense of fuel, and shall otherwise be rendered as specific as possible, with a distinct declaration of the amount to be paid to the molungees, without impost or deduction on any

account whatever, unless when otherwise specially authorized by Government.—Reg. I., 1824, sec. ix., cl. 9.

33. It shall be the duty of the agents to ascertain and record at the time of making the advances next season, or as soon after as may be practicable, in whom the property of the khalaries and salt lands within their respective divisions is vested.—Reg. I., 1824, sec. ix., cl. 10.

34. Salt lands worked by the salt department from the time of the assumption of the monopoly to the present day, or otherwise assumed and held before and since the perpetual settlement (although originally belonging to an estate for which a permanent settlement has been formed), shall be considered to be held by the officers of the salt department, free of rent, under a perpetual title of occupancy, and shall be considered to be and to have been liable to assessment by the revenue authorities, when relinquished by the officers of the salt department, in the same manner as if they had been farmed by an individual from Government, and had become open to re-settlement on the expiration of his lease.—Reg. I., 1824, sec. ix., cl. 11.

35. Salt lands, upon which salt works have been established, whether before or after the perpetual settlement, shall, provided they have been worked for twelve years without claim on the part of any one to receive a rent or compensation for the use of the same, be deemed to be the absolute property of Government.—Reg. I., 1824, sec. ix., cl. 12.

36. Salt lands, upon which salt works were established after the perpetual settlement, and for the use of which a rent or consideration may be now paid to individuals, shall, until otherwise determined by a decree of Court, be deemed to be the property of the said individuals who, for so long as the lands may be occupied by the salt department, shall receive the same rent as they received for the use of the same in the past year. The rent is to be paid in money, and to be charged in the salt agent's accounts, amongst other expenses of the manufacture, without any demand being made on the contractors or molungees on account thereof, unless otherwise specially authorized. This payment is to continue as long as the salt department shall retain possession of the lands, and to cease when those lands shall lose their saline quality, and be given up by the salt agents. Provided, however, that nothing in this paragraph shall be construed to preclude the revenue officers from proceeding under the rules of Regulation II., 1819 ("LA-KHIRAJ"), to assess the lands so occupied by the salt department, if the same be chargeable with revenue on account of the rent paid by that department, or the collections otherwise made by the party claiming to be proprietor.—Reg. I., 1824, sec. ix., cl. 13.

37. Salt lands may be occupied as heretofore by the officers of the salt department, an adequate compensation being made to the proprietors, if the lands be private property. The salt agent, on taking possession of any such land, shall notify the circumstance, by causing a flag to be exhibited on the spot, and by publishing an ishtihar, defining as accurately as possible the situation and limits of the land occupied by him, such ishtihar to be stuck up in the collector's cutcherry, and the agent's own office; and persons claiming to be proprietors of such land, who may neglect or delay to prefer such claims, shall not be held entitled to any arrears of rent beyond the year in which their claim may be afterwards preferred.—Reg. I., 1824, sec. x., cl. 1.

38. Upon any zemindar preferring a claim to property in lands occupied for the salt manufacture, and for which no rent or consideration shall have hitherto been paid to any individual, the salt agent and collector, or both, where the two offices may be held separately, shall either proceed in person, or depute a substitute or substitutes, being, if possible, European public officers, to determine, by inquiries on the spot, how far, with reference to the principle laid down in Section III., Regulation II., 1819 ("LA-KHIRAJ," paragraph 201), the chur or other salt land is part of the zemindar's assessed estate. The collector will at the same time call upon the zemindar to produce any evidence or documents on which he may rely in proof of his claim, and shall regularly enter the same on the proceedings, together with a statement of the fact, established by local inquiry (whether conducted by the collector himself, or by an officer specially commissioned), and shall finally record his own opinion on the case in a Persian or Bengally roobakarree. If the collector shall be satisfied that the land in question is part of the zemindar's estate, he shall adjust, subject to the instructions of the Board of Revenue, the consideration to be paid by the salt department for the use of the chur or other salt land, carefully specifying the extent and limits of the same. If the zemindar shall not agree to the terms proposed by the collector, the amount of rent or compensation to be paid shall be settled under the rules above enacted for settling generally the course to be followed in effecting a constrained transfer of private property for public purposes, reference being had to any injury the zemindar may sustain by having the manufacture conducted on his estate, as well as to any profit he might otherwise derive from the land. If the agent shall consider the amount awarded to the zemindar to be too great, he shall nevertheless pay it for the first year, and may then remove. If the agent shall agree to the award, the same rate will be paid annually during the occupancy, without reference to what may be the subsequent extent of the manufacture, or to the quantity of land comprised in the chur.—Reg. I., 1824, sec. x., cl. 2.

39. If on a claim being preferred as above by a zemindar, the collector shall be of opinion that the chur or salt land belongs to Government, he shall nevertheless proceed to adjust with

the agent the amount of rent to be paid by the salt department for the use of it, and will in this case transmit his proceedings to the Board for their decision on the zemindar's claim; provided also, that in cases in which the collector may decide in favour of the zemindars, it shall still be competent to the Board to call for his proceedings, and to pass judgment on the claim whenever, from the representation of the salt agent or otherwise, they may see reason to think the decision of the collector erroneous. The decision of the revenue authorities, when in favour of Government, will be of course liable to be contested by suit in Court. If the property in any land, occupied as aforesaid, shall be decreed to the claimant, he will become entitled to the rent with which the revenue authorities may have charged the salt department; and if he be dissatisfied with the rent so fixed, the amount to be received by him shall be settled by arbitration in the manner hereinbefore provided for the adjustment of the compensation to be paid for the land taken for public purposes; but in such case the possession of the salt agent shall not be disturbed, so long as he shall discharge the rent awarded to the proprietor. —Reg. I., 1824, sec. x., cl. 3.

40. The same mode of adjustment shall be observed in regard to all claims now pending for compensation for the use of salt lands, but no remission of revenue shall be granted on this or the like account.—Reg. I., 1824, sec. x., cl. 4.

41. The rent of land occupied by the salt department shall be payable, unless otherwise specially settled, by the Bengal year; and whenever a salt agent shall see fit to remove from any salt lands occupied by him, he shall cause the flag to be withdrawn within one month after the expiration of the manufacturing year, and shall further give notice of his intention to do so by an ishtihar, published in the mode directed to be followed on the first occupation of salt lands, such notice to be given before the commencement of the ensuing Bengal year; and if any agent shall neglect to give due notice as aforesaid, and shall not be otherwise able clearly to show that the owner of the land occupied by him was fully apprized of his intention to quit previously to the expiration of the last year of his occupancy, then the owner shall be entitled to recover damages to the extent of one year's rent of the land, but shall not have any further claim on the agent or Government on account of arrears of rent, unless such arrears shall be due on account of years included in the term of a specific engagement.—Reg. I., 1824, sec. xi.

42. No cultivation shall be allowed within the limits of any chur or other lands transferred to the salt department, unless with the permission of the Board of Revenue, so long as the manufacture shall be continued on the same; and it shall and may be lawful for the salt agent, and his subordinate officers, to attach, confiscate, and dispose of, as may be directed by the Board, any crops grown on such land in contravention of this rule, and to require the police to aid him in doing so; and any person illicitly cultivating, clearing, or ploughing, such land, or doing any act preparatory to its cultivation and clearance, or causing another to do so, shall, on conviction before a magistrate, be subject, for every such offence, to a fine not exceeding five hundred rupees, besides being liable in a civil action for any damage which the salt department may sustain; provided, however, that if any chur or other salt land, occupied as above, shall become through natural causes useless for the purposes of the salt department, the proprietor thereof shall be entitled to recover possession of the same, on establishing the fact to the satisfaction of the Board of Revenue, or by a regular suit in Court, and on relinquishing the compensation paid to him by the salt agent for the use of the land.—Reg. I., 1824, sec. xii.

43. Churs and salt lands now occupied by the salt department, and for which no compensation may be now paid, or be hereafter adjusted to be due, as well as all such churs and salt lands as may be declared to be the property of Government, shall be held by the salt agents, under regular pottahs from the collector, containing as accurate a specification as possible of the extent and limits of the land; all such lands shall, upon their losing their saline quality, and becoming unfit for the salt manufacture, be made over to the collector, and if cultivation be found in such churs or lands before or after the officers of the salt department may have relinquished them, it shall at any time be competent to the collector to cause a settlement to be made on the part of Government with the actual cultivators, without reference to the pretensions of any one else to take the rents from these. In like manner the revenue authorities may sell the Government interest in such lands, or let them in farm, with such assessment as it may appear proper to impose.—Reg. I., 1824, sec. xiii.

44. The following rules are enacted for the purpose of defining and settling the relative rights of Government and of the zemindars in regard to the waste lands whence fuel is procured for the salt manufacture, with reference to the principles on which the monopoly was established at the period above mentioned, and the practice since followed.—Reg. I., 1824, sec. xiv., cl. 1.

45. In cases wherein no engagements may have been entered into for specific lands with ascertained limits, the salt department shall be considered to have the right of free fuel from all jungle or waste land lying within estates, the owners of which are allowed a remission of revenue, or receive rent from, or on account of the salt department, to the full extent of the manufacture now established so long as the said remission and rent shall continue to be allowed and paid. Fuel

required for new or additional khalaries is to be procured by agreement with the owner, or cut from land the property of Government.—Reg. I., 1824, sec. xiv., cl. 2.

46. Nothing contained in the above paragraph shall be construed to affect the rights of Government in land specifically reserved for the supply of fuel, nor shall the above provision be construed to authorize the officers of the salt department to prevent the cultivation of waste or jungle land, unless the same shall have been reserved under specific engagements. If it be required to reserve any fuel lands beyond those already reserved for the use of the salt department, an arrangement must be made for the purpose with the proprietors of the land, or measures taken for effecting the transfer of them to Government as hereinafter specified.—Reg. I., 1824, sec. xiv., cl. 3.

47. If any zemindar shall refuse to allow the salt officers to take on reasonable terms the fuel required by them from the jungle lying within his estate, such fuel not being demandable, under paragraph 45, the necessary fuel shall be taken, and a just compensation settled under the rules prescribed in paragraphs 2 to 22. The same course of proceeding shall be followed in cases in which the interest of the salt department shall render it necessary to reserve any parcel of fuel land, and the owner thereof shall refuse to surrender it on equitable terms.—Reg. I., 1824, sec. xiv., cl. 4.

48. In cases wherein any rent or remission may have been paid or allowed to any zemindar or other proprietor of land, in addition to the remission granted on account of khalary rents, collected previously to the Bengal year 1188, the receipt of the remission last mentioned shall be held only to bind the zemindar or other proprietor of land receiving the same, to allow the right of free fuel to the extent of the manufacture established in the year aforesaid: and, on the other hand, the Government shall not be bound to continue any rent or remission now paid or allowed in addition to the remission granted as aforesaid, if the manufacture shall be reduced to the standard of the said year, but on the discontinuance of the khalaries established since that period, or on the reduction of the extent of manufacture to the standard of the said year, Government shall be entitled to discontinue any rent or remission paid or allowed on account of such khalary, and further shall be competent to cause a new adjustment to be made of the rent or remission to be hereafter paid on account of khalaries established since the year above mentioned.—Reg. I., 1824, sec. xv.

FOR RAILWAYS AND OTHER PUBLIC WORKS.

49. Any railway made in the territories subject to the presidency of Fort William in Bengal, under the sanction of Government, is a public work within the meaning of Regulation I., 1824.—Act XLII., 1850, sec. i.

50. The persons employed in any public work, with their servants and workmen, may enter upon any land for surveying the ground, and in the case of a road, canal, or railway, for setting out the intended line thereof, and in the case of any intended road, canal, or railway, may mark the intended line by cutting a trench or placing landmarks along the line; and where otherwise the survey cannot be completed and the line marked, may, with the sanction of the Government, or of any officer appointed by Government for this purpose, cut down and clear away any part of any jungle or tope of trees in the direction of the intended line. Provided that no person shall enter the curtilage of any house under colour of this Act without consent of the occupier, unless between sunrise and sunset, and after due notice given to such occupier.—Act XLII., 1850, sec. ii.

51. It shall be the duty of the officer so appointed by the Government to take account of all necessary damage done as aforesaid, that it may be allowed for in awarding compensation to the owners and occupiers of land.—Act XLII., 1850, sec. iii.

52. Whoever wilfully obstructs any person in lawfully setting out the line of any road, canal, or railway, or wilfully destroys, damages, or displaces any such landmark, or effaces, or fills any such trench, shall be liable to be imprisoned for any term not exceeding six months, and also to fine not exceeding two hundred rupees.—Act XLII., 1850, sec. iv.

53. Whenever the said officer shall have recorded his opinion that the land in dispute is needed immediately for the purpose of the public work, he shall be empowered to take immediate possession thereof on behalf of the Government, leaving the amount and distribution of the consideration to be paid for it, if not agreed to by private bargain, to be afterwards ascertained according to Regulation I., 1824; and such possession may be enforced, and the obstruction of it punished, in like manner as if the land so taken had been sold in execution of the decree of a Civil Court; and all collectors, magistrates, and other officers, shall, if necessary, give the like aid as they would be bound to give for enforcing the speedy and complete execution of any such decree.—Act XLII., 1850, sec. v.

54. If the said officer is opposed or impeded in taking immediate possession of such land as in his opinion is immediately needed, he shall apply to the magistrate of the district, who shall enforce the surrender of the land.—Act XLII., 1850, sec. vi.

55. The powers of Regulation I., 1824, and of Act XLII., 1850, shall extend in the case of any road, canal, or railway, to authorize the temporary occupation of any land not more than one hundred yards from the centre line of the road, canal, or railway, as marked on the ground, for taking earth or other materials for making or repairing the road, canal, or railway, or for depositing thereon superfluous earth or other materials, or erecting temporary buildings and workshops thereon, or any land which may be needed for making temporary roads from any public road to the intended line of railway; and for the temporary occupation of any such land, and for any permanent damage done by such occupation and use of the land, including the full value of all clay, stone, gravel, sand, and other materials taken thence, compensation shall be paid to and among all persons having an interest therein, to be ascertained in case of disagreement in the same manner as compensation for land permanently taken.—Act XLII., 1850, sec. vii.

56. The local Government, if it thinks fit, may empower any such officer to execute any award made under Regulation I., 1824, and to do all things necessary for completing the business of taking and paying for the said land, and for settling all disputes concerning it, without sending any report to the local Government.—Act XLII., 1850, sec. viii.

57. In every case in which any land has been or shall be taken by the Government for any public work, otherwise than according to Regulation I., 1824, such land, after the lapse of five years, without any claim preferred for the recovery thereof in any competent Court, or under the said Regulation I., 1824, or this Act, shall vest absolutely in the East-India Company, freed and discharged from all other claims thereunto.—Act XLII., 1850, sec. ix.

58. The said term of five years shall be reckoned from the date of this Act, in the case of land heretofore taken, and in the case of land hereafter taken from the time of taking possession thereof.—Act XLII., 1850, sec. x.

59. If, within the said term of five years, any suit is begun upon which final judgment shall be obtained establishing the right of the plaintiff to any interest in any such land, then, instead of the said land, there shall be paid to the person obtaining such judgment the value of his interest in the said land at the time when possession thereof was taken, with interest thereon at the usual and lawful rate, to be ascertained and settled in case of dispute by arbitration in the manner described for disputed claims by Regulation I., 1824.—Act XLII., 1850, sec. xi.

*In Calcutta.*

60. The powers and provisions of paragraphs 1 to 22, shall be applicable to all lands within the town of Calcutta which shall have been declared by the Governor of Bengal to be needed for any public purpose; and such declaration shall be conclusive evidence that the purpose for which the lands are needed is a public purpose.—Act I., 1850, sec. i.

61. In all cases in which payment of any part of the purchase or compensation money is reserved according to paragraph 17, on account of any lands taken for any public purpose under this Act, the Government securities mentioned in the said paragraph shall be deposited with the Government agent at Fort William in Bengal, in the name and with the privity of the accountant-general of her Majesty's Supreme Court of Judicature at Fort William, to be placed by him to the credit of the persons interested in such lands, describing them, as nearly as may be done, according to the course of proceeding in the said Court in matters and causes depending before it in equity.—Act I. 1850, sec. ii.

62. The said securities shall remain in the hands of the Government agent, and the interest accruing thereon shall be, from time to time, received and paid, under the order of the said Supreme Court, to the person or persons for the time being, who would have been entitled to receive the rents and profits of the said lands if the same had not been taken as aforesaid, until there shall be some person or persons absolutely entitled to receive the principal sum of the moneys so reserved, and thereupon the said Government securities, with all interest then due thereon, shall be transferred and paid to such person or persons under the like order of the said Court, and so long as no person can be found entitled to receive the interest of the said Government securities, the Government agent shall continue to receive, and, from time to time, to invest the accumulation of interest due thereon in the purchase of other Government securities, to be held and applied by him on the same trusts as the securities first purchased.—Act I., 1850, sec. iii.

# LAND REVENUE.

## EMBANKMENTS AND WATER-COURSES

### TABLE OF ENACTMENTS.

| Original Regulation or Act. | Paras. in Consolidation. | REMARKS. |
|---|---|---|
| 1793. XXXIII. | | |
| ii. to vii. | | Rescinded by sec. ii., Reg. VI., 1806. |
| viii. to xv. | 1 to 8 | |
| 1795. XLVI. ii. | 2 | |
| 1803. XLIV. | | |
| ii. to vii. | | Rescinded by sec. ii., Reg. VI., 1806. |
| viii. to xv. | 1 to 8 | |
| 1806. VI. ii. | 9 | Incorporated with sec. ii., Reg. XI., 1829. |
| iii., iv. | | Rescinded by sec. ii., Reg. XI., 1829. |
| v. to xiii. | 10 to 29 | |
| 1829. XI. | 9 | Incorporated with sec. ii., Reg. VI., 1806. |

# LAND REVENUE.

## ADVANCES FOR REPAIR OF EMBANKMENTS, &c.

### *General Rules.*

1. Advances shall be made to proprietors or farmers of land, or dependent talookdars, or under-farmers or ryots, for the purpose of repairing or making embankments, or repairing, enlarging, or making tanks, reservoirs, or watercourses, under the conditions specified in the following paragraphs.—Reg. XXXIII., 1793, sec. viii.; Reg. XLVI., 1795; Reg. XLIV. 1803, sec. viii.

2. The applications for such advances are to be made in writing to the collector of the zillah, and are to specify the nature and extent of the work for which they are required, the period by which it will be completed, and the amount of the advance solicited. If a person applying for advances shall not be the proprietor of the lands for the benefit of which the works are to be made, he is to give security for the repayment of the advance with interest, and also for the payment of the penalty to be exacted in the cases mentioned in the following paragraph, and shall specify in his application the security he may have to offer. If the person making the application shall be the proprietor of the lands for the benefit of which the works are intended, he is not to be required to give security in the provinces of Bengal, Behar, and Orissa, but his lands are to be held responsible for the repayment of the advance with interest, and for the eventual discharge of the penalty. But in Benares and in the Ceded and Conquered Provinces, when the person making the application may be the proprietor of the lands for the benefit of which the works are intended, he shall give the like security as is required from farmers or other persons who are not the proprietors of the land for the benefit of which the works are intended to be undertaken.—Reg. XXXIII., 1793, sec. ix.; Reg. XLVI., 1795, sec. ii.; Reg. XLIV., 1803, sec. ix.

3. Persons receiving advances, and (if they be not the proprietors of the land in Bengal, Behar, and Orissa) their sureties, are to bind themselves to repay the amount, at such period or periods as may be agreed upon between them and the collector, with interest at the rate of twelve per cent. per annum, and also to pay a penalty of twenty-five per cent. on the amount advanced, in the event of the works not being completed by the stipulated period, or of the money not being applied to the purpose for which it may have been advanced.—Reg. XXXIII., 1793, sec. x.; Reg. XLIV., 1803, sec. x.

4. The collectors, upon receipt of such written applications, are to forward them without delay to the Board of Revenue, with any remarks which they may have to offer respecting them. The Board of Revenue, provided there shall appear to them no objection to the execution of the work proposed, and (in cases in which security is directed to be taken) they shall be satisfied of the sufficiency of the security offered for the repayment of the required advance with interest, and for the discharge of the penalty in the cases mentioned in the preceding paragraph, are empowered to authorize the collector to make the required advance, upon the person applying for it, and (if he be not proprietor of the land) his surety, executing the prescribed engagements.—Reg. XXXIII., 1793, sec. xi.; Reg. XLIV., 1803, sec. xi.

5. Upon the arrival of the period by which such works may have been stipulated to be completed, the collector is to direct the tehseeldar, or other officer of Government upon the spot, or such person as he may deem it proper to appoint, to survey the works, and to report in what manner they have been executed; and in the event of their not having been completed according to the engagement and by the stipulated period, or of the money not having been applied to the purpose for which it may have been advanced, he is to levy the penalty above directed, sending immediate information to the Board of Revenue of the exaction of it.—Reg. XXXIII., 1793, sec. xii.; Reg. XLIV., 1803, sec. xii.

6. The collectors are to transmit to the Board of Revenue, at such periods and in such form as they may direct, reports on the execution of the works for which advances may be made under these rules.—Reg. XXXIII., 1793, sec. xiii.; Reg. XLIV., 1803, sec. xiii.

7. The Board of Revenue are empowered to receive applications for such advances in the first instance; and provided there shall appear to them no objection to the work proposed to be executed, and the person making the application shall give the required security and execute the prescribed deeds, to order the collector of the zillah to comply with it.—Reg. XXXIII., 1793, sec. xiv.; Reg. XLIV., 1803, sec. xiv.

8. If a work for which advances may be made under these rules shall not be completed by the stipulated period, and the person who may have received the advances can show good cause, to the satisfaction of the collector, for not having finished it, he is to report the circumstances to the Board of Revenue, who are empowered to allow such further time for the completion of the work as they may judge proper.—Reg. XXXIII., 1803, sec. xv.; Reg. XLIV., 1803, sec. xv.

## SUPERINTENDENCE OF EMBANKMENTS.

9. The general charge of the embankments maintained in the different zillahs at the expense of Government, and the superintendence of the repairs of such embankments, shall be vested in such officers as the Governor-General in Council may appoint; and the officers so appointed, with all subordinate functionaries, shall, in the discharge of their duties, be guided by such orders as they may from time to time receive from Government.—Reg. VI., 1806, sec. ii.; Reg. XI., 1829, sec. ii.

10. It shall be the duty of the officers in charge of the embankments to furnish the Governor-General in Council, as soon after the expiration of the rains in each year as may be practicable, with estimates of the expense which may be required for the repair of the embankments maintained by Government in the ensuing year.—Reg. VI., 1806, sec. v., cl. 1.

11. To expedite and facilitate the duty prescribed in the preceding paragraph, the collectors of the land revenue in those districts in which officers for the superintendence of embankments may be appointed, shall prepare, for the consideration of such officers, estimates of the expense which may be required for the repair of the embankments in the ensuing season, accompanied with such information from the officers employed in the performance of that duty, or from other persons, as the collectors may deem necessary to enable the officers to judge of the propriety of the estimates prepared by them.—Reg. VI., 1806, sec. v., cl. 2.

12. In preparing the estimates mentioned in the preceding paragraph, the collectors shall be at liberty to require the assistance of any person employed, with the sanction of Government, in the execution of the repair of the embankments, whether such person shall be an engineer officer or otherwise; and also the assistance of any of the subordinate officers employed under such person in the repair of the embankments.—Reg. VI., 1806, sec. v., cl. 3.

13. When the estimates shall have been so prepared, a meeting of the embankment officers shall be summoned, under the signature of the secretary, at the station of the magistrate and collector, for the purpose of taking the estimates into consideration, together with any other points connected with the duty intrusted to them by these rules, which may be proposed by any one of them; and such meeting shall not, on any account, be postponed beyond the expiration of the month of December in each year.—Reg. VI., 1806, sec. v., cl. 4.

14. When the estimates shall have been approved by the embankment officers, they shall be forwarded to the secretary to Government in the revenue department, for the consideration of the Governor-General in Council, accompanied with any suggestions which may appear to the officers to be necessary or proper, with the view of preserving the embankments in an efficient and complete state of repair.—Reg. VI., 1806, sec. v., cl. 5.

15. Should any member be unable to attend the annual meeting of the embankment officers, he shall state the reasons of his absence to the secretary to the officers; and the officers shall forward a copy of the letter of such absentee to the Governor-General in Council, together with their report upon the estimates, for his information.—Reg. VI., 1806, sec. v., cl. 6.

16. It shall likewise be the duty of the collectors, aided by the officers, both European and native, who may be employed in the execution of the repair of the embankments, to prepare the accounts of the actual expense incurred in each year on that account; unless it should appear to the Governor-General in Council to be preferable, in any instance, to commit this duty to any other officer, in which case the annual accounts, and the annual estimates mentioned in paragraphs 10 to 15, shall be prepared by such person as the Governor-General in Council may direct.—Reg. VI., 1806, sec. vi.

17. The accounts shall be taken into consideration by the embankment officers either at the annual meeting above prescribed, or at a special meeting convened for that purpose, or in circulation, as may be most convenient.—Reg. VI., 1806, sec. vii.

18. As soon as the accounts of the actual expenditure in each year shall have received the approbation of the embankment officers, they shall be forwarded to the civil auditor, who will submit them, with any observations which he may deem necessary, to the Governor-General in Council for his final orders.—Reg. VI., 1806, sec. viii.

19. In those parts of the country in which it may not be convenient to appoint embankment officers, in consequence of the distance of the residence of most of the public officers from the situation of the embankments (as, for instance, at Tumlook and Hidgelee), the duty intrusted by paragraphs 10 to 16 to the collectors shall be performed by the salt agents, or by such other persons as the

Governor-General in Council may direct; and the general charge of the embankments shall be committed to the Board of Revenue, who shall conform, as nearly as local situation and other circumstances will permit, in the performance of that duty, to the rules above prescribed for the conduct of the several embankment officers.—Reg. VI., 1806, sec. ix.

20. Previously to the annual meeting ordered to be holden in paragraph 13, a deputation shall be made of one or more embankment officers at each station, for the purpose of examining in person the state of the embankments; and such officer or officers shall communicate to the general meeting such observations as may have occurred to him or them respecting the actual state of the embankments, and any suggestions which may appear to be necessary for the purpose of preserving the embankments in an efficient state of repair. Those reports shall be regularly forwarded to the Governor-General in Council, together with the estimate of the expense required for the repair of the embankments in each successive year.—Reg. VI., 1806, sec. x.

21. The embankment officers in the several zillahs shall be vested with a general control over the embankments which are repaired at the expense of the zemindars and farmers, as well as those which are maintained by the Government. By this rule, it is not intended to interfere with the zemindars and farmers in the repair of the embankments situated in the lands held by them, so long as that duty shall be effectually and properly performed. The officers shall, however, be at liberty, whenever they may deem it necessary, to call upon any zemindar or farmer, either by a perwannah from themselves or through the collector, as may be deemed preferable, to make such repairs to the embankments situated in the lands of such zemindar or farmer as may be required. Should any zemindar or farmer, after the receipt of such perwannah, neglect to make the necessary repairs, the officers shall submit to Government an estimate of the expense required for that purpose; and the repairs shall in all such cases be made by the officers of Government, and the expense recovered from the zemindar or farmer who was bound to keep the embankments in a proper state of repair. Provided, however, that in all such cases, the accounts of the actual expenditure shall be forwarded, through the channel of the civil auditor, to the Governor-General in Council for his sanction, previously to the amount being charged to the account of the zemindar or farmer.—Reg. VI., 1806, sec. xi.

22. Material injury and inconvenience having been sustained from the abuse of the powers exercised by the holders and cultivators of land, in making cuts and water-courses through the embankments, the following rules have been established for general observance with respect to that point.—Reg. VI., 1806, sec. xii., cl. 1.

23. With a view of preventing, as far as may be practicable, the necessity of making cuts in the embankments, sluices of masonry shall be constructed at those places at which water-courses may be deemed more particularly necessary. The several officers will accordingly report, whenever they may be of opinion that such sluices are absolutely necessary for the purpose of improving the cultivation of the country, and obviating the inconvenience and expense arising from making temporary water-courses at such places.—Reg. VI., 1806, sec. xii., cl. 2.

24. Whenever such sluices may be constructed, they shall be opened only by the darogah or other native officer in immediate charge of the embankments, under such orders as the darogah or other officer may receive from the officers of embankments, or from the person intrusted with the immediate superintendence of the repairs.—Reg. VI., 1806, sec. xii., cl. 3.

25. Whenever the holders or cultivators of land may be desirous that a water-course should be made through any part of the embankments where sluices are not constructed, they shall state the circumstance to the darogah, who will communicate the application to the person vested with the superintendence of the repair of the embankments; and that officer will pass such orders on the subject as may appear to him to be proper, applying, whenever he may deem it necessary, to the officers for their instructions on the subject.—Reg. VI., 1806, sec. xii., cl. 4.

26. In deciding upon applications of that nature, the officers in charge of the embankments and officers acting under their authority will particularly consider, not only the advantage which such persons may derive from opening the embankments, but likewise the injury which the lands of other persons may eventually sustain from that cause; and will order the embankments to be opened or not, according as may appear to be most conducive to the general interests and prosperity of the country.—Reg. XI., 1806, sec. xii., cl. 5.

27. Should any person be guilty of the offence of making cuts through any of the embankments maintained at the expense of Government, in any other manner than that prescribed in the two preceding paragraphs, he shall be liable to be prosecuted criminally before the magistrate for such misdemeanor, who will decide on the case or refer it to the Sessions Court, according to the extent of the injury done by the offender, and the punishment to which the magistrate may consider him to be liable.—Reg. VI., 1806, sec. xii., cl. 6.

28. Any person so offending will likewise be liable to be prosecuted in the Civil Court for damages, by any person or persons who may have sustained any loss or injury from the improper opening of the embankments.—Reg. VI., 1806, sec. xii., cl. 7.

29. The rules contained in the seven foregoing paragraphs are to be considered applicable to the embankments repaired by the zemindars and farmers; with this difference, that when any person may be desirous that water-courses should be made through any part of such embankments, they are to apply to the zemindar or farmer, or to the officers employed by him in superintending the repair of the embankments, who will decide on the application, in conformity to the principle above stated; provided, however, that any persons who may be dissatisfied with the decision of the zemindar or farmer, or of his officers, shall be at liberty to submit a further application to the officers in charge of the embankments, who will pass such orders on the subject as may appear to be just and reasonable. Any persons infringing this rule will be subject to the penalties stated in paragraph 27, and to a civil action for damages at the suit of any individual, as above mentioned.—Reg. XII., 1806, sec. xiii.

## BOUNDARY MARKS, NORTH-WESTERN PROVINCES.

### Act I., 1847.

1. It shall be lawful, within the territories subject to the Government of the North-Western Provinces of Bengal, for collectors of land revenue, or persons exercising the powers of collector, or such revenue officers as the Lieutenant-Governor may intrust with that authority, to fix the boundaries of fields or estates, and to require that marks be formed and maintained by the owners or occupants on the boundaries, of such materials and in such number and manner as may appear to such officers sufficient for distinguishing the limits of those fields or estates whenever they may be of opinion that such demarcation is necessary for the prevention or adjustment of disputes.—Act I., 1847, sec. i.

2. Notices shall be served on the persons owning or occupying the conterminous fields or estates, requiring them to form or repair the said boundary marks within ten days from the date of the notice, and in the event of these persons not being found in the village, that the said requisition shall be posted at the village chowree or chopal, or other conspicuous place in the village, which shall be held to be a sufficient service, notwithstanding it may afterwards appear that the owners or occupants were not correctly named or designated in the notice.—Act I., 1847, sec. ii.

3. In default of the owners or occupants of the fields or estates complying with the requisition, the said revenue officers shall give directions for the erection and repair of such boundary marks, the cost of which shall be equitably apportioned on the fields or estates which they serve to distinguish, and shall be charged to the persons possessing a right of ownership or occupancy in such fields or estates, and shall be realized in the same manner as arrears of land revenue.—Act I., 1847, sec. iii.

4. Any person who may be convicted of wilfully erasing, removing, or injuring such boundary marks, shall be liable to a fine not exceeding fifty rupees for each mark so erased, removed, or injured; one half of which fine may be awarded on conviction to the informer, and the other half shall be chargeable with the cost of restoring the mark; whenever it may not be possible to detect the person who erased, removed, or injured the boundary marks as aforesaid, the marks shall be re-erected or repaired at the charge of one or both parties, as the collector or other officer authorised to make the demarcation may consider just and equitable.—Act I., 1847, sec. iv.

5. Disputed boundaries shall be fixed by revenue officers under the powers and in the manner prescribed in Regulations VII., 1822, and IX., of 1833, and shall be similarly open to appeal.—Act. I., 1847, sec. v.

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## REVENUE OFFICERS.

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# LAND REVENUE.

## REVENUE OFFICERS.

### OATH OF REVENUE OFFICERS.

1. The following is the form of the oath, prescribed by the Statute 33, Geo. III., cap. 52, sec. 61, which is to be taken by the persons employed in the collection of the public revenue :—

"I, ———, do promise and swear, that I will, to the utmost of my endeavours, well and faithfully execute and discharge the duties of an officer of revenue, reposed in and committed to me by the United Company of Merchants of England trading to the East Indies; and that I will not demand, take or accept, directly or indirectly, by myself or by any other person for my use or on my behalf, of or from any rajah, zemindar, talookdar, polygar, farmer, renter, or ryot, or from any person paying or liable to pay any tribute, rent, or tax, to or for the use of the said United Company, any sum of money or other valuable thing, by way of gift, present, or otherwise, over and above, or besides and except the actual tribute, rent, or tax, authorized to be taken by and for the use of the said United Company; and that I will justly and truly account for, answer, and pay all the rents, duties, and other revenues and sums of money which shall come to my hands, or to the hands of any person or persons in trust for or employed by me as an officer of the revenues of the said Company, unto the said United Company. So help me God."—Reg. V., 1804, sec. xxvi.

2. Whenever it may be requisite to administer to any person employed in the management or collection of the revenue the oath above prescribed, the Governor-General in Council will determine and direct whether the same shall be taken before one of the judges of the Supreme Court of Judicature at Calcutta, or before such other person as may be authorized by an order of Government for this purpose. It shall, however, be observed as an invariable rule, whenever the oath in question may be taken before any other person than one of the judges of the Supreme Court, to transmit the same, duly subscribed and attested, to the register to the Sudder Dewanny Adawlut, for the purpose of being recorded in that Court.—Reg. V., 1804, sec. xxv.

### COMMISSIONERS OF REVENUE AND CIRCUIT.

3. A commissioner of revenue and circuit shall be appointed for each of the undermentioned divisions: provided, however, that it shall be competent to the Governor-General in Council, by an order in council, to transfer any district or districts from one division to another; and to increase or reduce the number of commissioners, if such a measure shall appear to be necessary or expedient; due notice of any such arrangement being given by public proclamation.

| | |
|---|---|
| *1st Division to contain the districts under the magistrates, collectors, joint magistrates, and sub-collectors of ... ... ... | Seharunpore, Mozuffernuggur, Meerut, and Boolundshuhur. |
| *2nd Ditto ... ditto of ... ... | Agra, Allighur, and Sydabad |
| *3rd Ditto ... ditto of .. ... | Furruckabad, Mynpooree, Sirpoora, and Etawah. |
| *4th Ditto ... ditto of ... ... | Moradabad, Nugeena, and Suhswan. |
| *5th Ditto ... ditto of ... ... | Bareilly, Shahjehanpore, and Pillibheet. |
| *6th Ditto ... ditto of ... ... | Cawnpore, Belah, and N. Bundlecund. |

* The divisions numbered from one to nine inclusive were placed under the Sudder Dewanny and Nizamut Adawlut at Allahabad (now at Agra) by sec. iii., Reg. VI., 1831, and of the Sudder Board of Revenue at Allahabad by sec. v., Reg. X., 1831.

| | | | |
|---|---|---|---|
| *7th Division to contain the districts under the magistrates, collectors, joint magistrates, and sub-collectors of | ... | ... | ... | Allahadad, Futtehpore, and Banda. |
| *8th Ditto ... | ditto of | ... | ... | Benares, Mirzapore, and Juanpore. |
| *9th Ditto ... | ditto of | ... | ... | Goruckpore, Azimghur, and Ghazeepore. |
| 10th Ditto ... | ditto of | ... | ... | Sarun, Shahabad, and Tirhoot. |
| 11th Ditto ... | ditto of | ... | ... | Patna, Behar, and Ramghur. |
| 12th Ditto ... | ditto of | ... | ... | Boglepore, Monghyr, Malda, and Purnea. |
| 13th Ditto ... | ditto of | ... | ... | Dinagepore, Rungpore, Rajshahy, and Bugoorah. |
| 14th Ditto ... | ditto of | ... | ... | Moorshedabad, Beerbhoom, and Nuddea. |
| 15th Ditto ... | ditto of | ... | ... | Dacca, Dacca Jelalpore, Tipperah, and Mymunsing. |
| 16th Ditto ... | ditto of | ... | ... | Chittagong, and Noacolly. — To be placed under the officer appointed to control the affairs of Arracan. |
| 17th Ditto ... | ditto of | ... | ... | Sherpore, and Sylhet. — To be placed under the commissioner of Assam and the N. E. parts of Rungpore. |
| 18th Ditto ... | ditto of | ... | ... | Bakergunge, Jessore, Suburbs of Calcutta, 24-Pergunnahs, and Barasut. |
| 19th Ditto ... | ditto of | ... | ... | Cuttack, Khoorda, Balasore, Midnapore and Nugwan, including Hidgellee. |
| 20th Ditto ... | ditto of | ... | ... | Burdwan, Jungle Mehauls, and Hooghly. |

—Reg. I., 1829, sec. ii.

4. The said commissioners shall, until otherwise specifically provided for by law, possess and exercise within the several districts comprised in their respective divisions, the powers and authority now vested in the Boards of Revenue and Courts of Wards, subject to the control and direction of a Sudder or Head Board, to be ordinarily stationed at the presidency, unless otherwise directed by the Governor-General in Council; and to such restrictions and provisions as the Governor-General in Council or the said Sudder Board, with his authority or sanction, may prescribe.—Reg. I., 1829, sec. iv., cl. 1.

5. In regard to the form of their proceedings, in the revenue department, the Commissioners and the Sudder Board shall be guided by such orders as the Governor-General in Council may, from time to time, issue, and it shall be competent to the Governor-General in Council to fix the stations at which the Board and the Commissioners, when not employed on the duties of circuit, shall reside, at such places within the territories belonging to this presidency, as may, from time to time, be deemed expedient.—Reg. I., 1829, sec. iv., cl. 2.

6. Provided also, that in cases in which any tract of country that belongs to the jurisdiction of a magistrate or joint magistrate of one division, may be under the authority of a collector or deputy collector, attached to another division, the Governor-General in Council shall determine, by an order in council, the nature and extent of the powers to be exercised in regard to the revenue

affairs of such tract by the commissioners respectively, with whose divisions it may be so jointly connected.—Reg. I., 1829, sec. iv., cl. 3.

7. Such of the provisions of the existing Regulations for defining the duties and powers of the Revenue Boards and Courts of Wards, or of single members thereof, as may be inconsistent with the arrangement above prescribed, are, and shall be considered to be annulled.—Reg. I., 1829, sec. vi.

8. In the revenue department, the commissioner of Cuttack shall be subject to the Sudder Board, in like manner as the commissioners of other divisions.—Reg. I., 1829, sec. viii.

## BOARD OF REVENUE.

NOTE.—By sec. v., Reg. I., 1829, the Board of Revenue was, for the first time, designated "Sudder Board of Revenue at the Presidency;" Reg. X., 1831, provided for a deputation from that Board to be stationed at Allahabad, but the designation has been altered from "Sudder Board on Deputation" to "Board of Revenue for the North-Western Provinces," and the station is now at Agra. The Sudder Board of Revenue at the Presidency is now, under Act IV., 1850, denominated "Board of Revenue for the Lower Provinces of Bengal." See the rules in paragraphs 4 and 5, which are also applicable to the Sudder Boards.

9. The Boards of Revenue shall each of them consist of such number of members as the Governor-General in Council may from time to time appoint.—Reg. III., 1822, sec. iv., cl. 1.

10. The said Boards shall ordinarily sit daily (Sundays and holidays excepted) for the transaction of public business.—Reg. III., 1822, sec. iv., cl. 2.

11. In the event of the death, resignation, or unavoidable absence of a member of the Board of Revenue, or of a member of any commission exercising the powers of that Board; a single member of such Board or commission shall be competent to exercise all the duties, powers, and authority vested in such Board, collectively, in like manner as in the case specified in paragraph 23.—Reg. XXIV., 1817, sec. v.

12. It shall be competent to the Governor-General in Council, by an order in Council, to authorize a single member of any of the said Boards to exercise, either generally or locally, all the duties, powers, and authority, which are vested in the Board collectively, whenever circumstances may render such an arrangement desirable. It shall further be competent to the Governor-General in Council similarly to authorize the several members of the said Board separately to exercise at the same time, and within the same limits, such part of the said duties, powers, and authority, as it may from time to time be judged proper to assign to each respectively, whenever, for the greater dispatch of business or other cause, it may appear advisable to divide the business of the Board, or to assign any special duty to any member separately: provided, however, that if a member exercising singly, as above, the duties, powers, and authority of the Board, or any part thereof, shall in any case be of opinion that any decision or order of a collector ought to be reversed or altered, he shall not pass any final order on the case without the concurrence of one or more of the other members, unless otherwise specially directed and authorized by Government: provided, further, that it shall not be competent to a single member of a Board to reverse or alter a decree or order passed by any other member; provided also, that no settlement of the land revenue, whether in perpetuity or for a term of years, shall be or be held final and binding upon Government, unless the same shall have been formally confirmed by the Governor-General in Council.—Reg. III., 1822, sec. v., cl. 1.

13. Whenever two members of a Board shall jointly or separately have considered any question, if a difference of opinion shall arise between them, the decision of the question shall be postponed, and the case shall be referred to a third member, permanent or provisional, in such mode as may from time to time be directed by Government, and shall be determined according to the majority of voices.—Reg. III., 1822, sec. v., cl. 2.

14. In regard to the appointment, removal, or punishment of the native officers of collectors of land revenue, or other functionaries subordinate to the Boards, a single member vested as above with authority separately to exercise the powers of the Board, or any part thereof, shall, within the limits of his authority, be competent to proceed in the same manner as the Board collectively are authorized to proceed: provided that, in any such case, if a member of the Board acting singly shall differ in opinion from a collector, or other functionary immediately subordinate to them, he shall not, unless otherwise specially authorized by Government, pass any final order without the concurrence of one or more members of the Board.—Reg. III., 1822, sec. v., cl. 3.

15. No final orders regarding the appointment, removal, or punishment of officers belonging or immediately subordinate to the Board, shall (unless otherwise specially directed by the Governor-General in Council) be issued without the concurrent judgment of two or more members.—Reg. III., 1822, sec. v., cl. 4.

16. Single members exercising separate authority as above shall be competent to suspend any officer under their authority, in like manner as the Board collectively may do; but all orders regarding the suspension of any such officer, passed by a single member, unless in confirmation of an order or recommendation of a collector, or other intermediate authority, or unless specially

authorized by the Governor-General in Council, shall be reported without loss of time to some other member, and shall be liable to be set aside by the decision of a majority of the Board.—Reg. III., 1822, sec. v., cl. 5.

17. The Boards are authorized to review, rescind, alter, or confirm, any order and decision passed by them collectively, or by any member exercising, as above, separate authority, if an application to that effect be made to them by any party interested in the case, within the period of three months from the date on which the order or decision may have been passed, or good and sufficient cause shown for a further delay, and if, from the documents exhibited, the case shall appear to merit further investigation. But no order or decision passed by a single member exercising separate authority shall be reversed, altered, or stayed, excepting on the concurrent judgment of two or more members.—Reg. III., 1822, sec. v., cl. 6.

18. To provide for cases wherein the members of the Board shall not agree in opinion as to the decision or order to be passed in any case, and wherein the voices on each side may be equal, it shall be competent to the Governor-General in Council to appoint one or more temporary or provisional members, who shall, in regard to the investigation and determination of the questions so in dispute, have and exercise the same powers and authority as if they ordinarily belonged to the Board; and if a difference of opinion as aforesaid shall arise between two members of the Board holding joint sittings, at any place where a temporary or provisional member may be stationed, the other permanent member or members of the Board being absent, it shall and may be lawful for them, without reference to such absent member, to submit the question in dispute to the provisional member, and to issue orders in conformity with the opinion which he may support.—Reg. III., 1822, sec. v., cl. 7.

19. Whenever and so often as the number of members present with the Sudder Board at the presidency shall be reduced to one, or when two shall be present, and a difference of opinion arise in regard to any matter which under the existing Regulations may require the concurrence of two voices, the question shall be referred for determination to the Sudder Board in the North-Western Provinces, in the same manner as is prescribed by paragraph 64; and in both cases the decree, award, or order in the matter referred shall be made according to the resolution of the majority of the members.—Reg. X., 1831, sec. x.

20. Nothing, however, contained in this Regulation shall be construed to bar the competency of the Governor-General in Council, by an order in council, to authorize a single member of the Sudder Board, either at the presidency or in the North-Western Provinces, to exercise, either generally or locally within the limits of their respective jurisdictions, all the duties, powers, and authority which are vested in those Boards collectively, whenever circumstances may render such an arrangement desirable.—Reg. X., 1831, sec. xi., cl. 1.

DEPUTATIONS.

21. Whenever circumstances may, in the judgment of the Governor-General in Council or of the Board of Revenue itself, render it advisable that the performance of any of the public duties entrusted by the general regulations to the superintendence of that Board should be superintended by a member of the said Board in person and on the spot, one of the members shall proceed to that part of the country in which his presence and services may be required. The Board of Revenue, with the approbation of the Governor-General in Council, shall at the same time determine to what district or districts the authority of the members so proceeding on deputation shall extend.—Reg. XIII., 1811, sec. ii.

22. The Board of Revenue, with the sanction aforesaid, will also determine what part of the establishment of their secretary's office shall attend the member proceeding on deputation, for the purpose of aiding in the discharge of the duties entrusted to him.—Reg. XIII., 1811, sec. iii.

23. The member of the Board of Revenue so employed shall be entitled to exercise all the duties, power, and authority which are or may be vested in the Board of Revenue collectively, within the limits which may be established for his temporary and exclusive control under paragraph 21. In like manner, a single member of the Board of Revenue shall, during the period of such deputation, be competent to exercise at the presidency all the duties, power, and authority vested in the Board collectively in the remaining parts of the provinces of Bengal, Behar, and Orissa, including Cuttack; provided, however, that whenever the acting president and junior member of the Board of Revenue shall be both at the presidency, two members shall be required, as at present, to constitute a regular and legal meeting of the Board.—Reg. XIII., 1811, sec. iv.

24. On the termination of any deputation by a member of the Board of Revenue, the correspondence and other documents connected with such deputation shall be carefully deposited in the office of the Board's secretary at the presidency.—Reg. XIII., 1811, sec. v.

DEFINITION OF THE TERM "BOARD OF REVENUE."

25. Whenever the term "Board of Revenue," or "Board of *Commissioners*," may occur in this or any other Regulation, the same shall be held and considered to apply to any Board, committee, or commission, and to any member of such Board, committee, or commission, that may be vested by the Governor-General in Council with the powers and authority of the Board of Revenue, save and except in so far as may be otherwise specially declared and provided.—Reg. VII., 1822, sec. xxxv.

DUTIES OF THE BOARD OF REVENUE.

*Lower Provinces.*

26. The Board are to be careful that the officers under their authority perform their assigned duties with regularity, integrity, and assiduity; and they are required to punish the officers under them, as far as the power vested in them for the purpose may allow, for disobedience or inattention to any Regulation printed and published in the manner directed in Regulation XLI., 1793, or to any special orders, and to report every such occurrence to the Governor-General in Council.—Reg. II., 1793, sec. xxx.

27. To enable them to control their officers with effect, they are invested with the following powers for the investigation and punishment of offences committed by any officer subject to their authority, according to their nature and extent.—Reg. II., 1793, sec. xxxi., cl. 1.

28. To summon him to the presidency to explain and justify his conduct, and to suspend him from his office, reporting to the Governor-General in Council every instance in which they may exercise these powers.—Reg. II., 1793, sec. xxxi., cl. 2.

29. To impose a fine upon him, not exceeding the amount of his salary for one month.—Reg. II., 1793, sec. xxxi., cl. 3.

30. It is to be understood, however, that any inquiry which the Board of Revenue may make into the misconduct of any officer subject to their authority, or any fine that they may impose upon him, or order which they may pass respecting him, is not to preclude persons who may have been injured by him, from suing him for the injury in any Court of judicature to which he may be amenable.—Reg. II., 1793, sec. xxxi., cl. 4.

31. Deputations ordered by the Board of Revenue are to be immediately reported to the Governor-General in Council, with the grounds on which they may have been ordered: and in all instances admitting of a limitation for completing the business of the deputation, a time is to be fixed for the performance of it, beyond which the person deputed is to receive no allowance or compensation, without explaining the cause of the delay to the full satisfaction of the Board.—Reg. II., 1793, sec. xxxii.

32. The Board of Revenue are empowered to require the personal attendance of any proprietor or farmer of land, or any dependent talookdar, under-farmer, or ryot, or any native officer employed under a collector, for the purpose of adjusting any settlement, or examining any accounts, or inquiring into any matter coming within their cognizance, provided the personal attendance of the party shall appear to them indispensably necessary. In such cases, the Board are to direct the collector to serve such person with a written notice under his official seal and signature, specifying the business on account of which his attendance is judged necessary, and requiring him to attend the Board by such period as they may limit, under pain of being subject to such daily fine until he attends, or shows satisfactory cause for his non-attendance, as the Board may think proper to impose. The Board are empowered to fine such persons neglecting to appear by the time required, in such amount as may appear to them proper upon a consideration of the case, and the situation and circumstances in life of the party, and the amount of the fine shall be levied by the collector, by the process prescribed for the recovery of arrears of revenue. But the Board of Revenue are prohibited requiring the personal attendance of any person in cases in which the business can be transacted by a vakeel.—Reg. II., 1793, sec. xxxiii.

NOTE.—See further rules, paragraph 216.

33. The Board of Revenue are empowered to issue orders to their subordinate officers for making the settlement of lands that are or may be khas, in conformity to the Regulations, and any special instructions which may be prescribed to them by the Governor-General in Council.—Reg. II., 1793, sec. xxxvi.

34. In all cases of a settlement being made with or on behalf of zemindars, independent talookdars, or other actual proprietors of land, their lands are to be deemed sufficient security for the payment of the revenue. But where lands are let in farm, a malzamin, or surety for the punctual discharge of the revenue, is to be invariably required.—Reg. II., 1793, sec. xxxvii.

35. No remissions upon the settlement of a preceding year, nor any remissions whatsoever, are to be granted by the Board without the sanction of the Governor-General in Council.—Reg. II., 1793, sec. xxxviii.

36. It is to be observed as a general principle, that the settlement of lands that are or may be khas is to be made by the collectors, under the regulations and instructions of the Board of Revenue. But if the Board should deem a special deputation of one of their members, or of any other person, necessary to form the settlement of any such lands, they are to propose the measure to the Governor-General in Council, with their reasons for recommending it.—Reg. II., 1793, sec. xxxix.

37. Upon a settlement being concluded with any proprietor or farmer, conformably to the Regulations, the Board of Revenue are to issue the usual bundobusty perwannah to the proprietor or farmer, without applying to the Governor-General in Council for his sanction for that purpose.—Reg. II., 1793, sec. xl.

38. The collection of the revenue is committed to the collectors; but the Board of Revenue are to see that the revenues are realized by the stipulated periods, or that solid and satisfactory reasons are assigned by the collectors for any delay or deficiency. The power of coercion over the proprietors and farmers of land is also vested in the collectors, as prescribed in Regulation XIV., 1793.—Reg. II., 1793, sec. xli.

39. The Board are authorized to grant temporary suspensions of the demands of revenue whenever it may appear to them indispensably necessary, reporting the sum suspended, without delay, to the Governor-General in Council, with their reasons for the measure. But they are not to grant any suspensions beyond the current year.—Reg. II., 1793, sec. xlii.

40. No remissions of balances are to be granted without the special authority of the Governor-General in Council.—Reg. II., 1793, sec. xliii.

41. They are also authorized to grant advances of tuccavy to proprietors or farmers of land, where it shall appear essentially necessary, in proportions not exceeding five per cent. on the revenue payable from the lands to Government, reporting all such instances to the Governor-General in Council. Where a larger sum may be required, his sanction must be previously obtained. The interest to be taken on such advances is to be one per cent. per mensem.—Reg. II., 1793, sec. xliv.

42. The Board of Revenue are to furnish the Governor-General in Council with such annual, monthly, or other accounts, as they now are or may be required to submit to him. They are likewise to observe all special orders which they have received, or may receive from the Governor-General in Council.—Reg. II., 1793, sec. xlv.

43. The Board of Revenue, collectively and individually, are prohibited from being concerned, directly or indirectly, in trade or commerce (which prohibition is to be understood to extend to the purchase of any goods or commodities in the British dominions in Bengal, for the purpose of remitting money to Europe), or in any house of agency, or in the direction or management of any bank, or in any transactions for borrowing money with any native revenue officer, or any person responsible for the collection or payment of the public revenue. They are likewise prohibited, without obtaining the previous sanction of the Governor-General for that purpose, accepting the security of a European for any farmer, dependent talookdar, or ryot, or granting or confirming any grant of malguzarry or lakhiraj land, or confirming the succession of any person to such lands, or continuing the pension of any deceased officer or pensioner to his family, or making any new general rule whatever.—Reg. II., 1793, sec. xlvi.; Act IV., 1837.

44. The Board of Revenue are to transmit to the Governor-General in Council all original acknowledgments which may be delivered to them for places that they may be directed to restore to foreign nations.—Reg. II., 1793, sec. xlvii.

45. The Board are to cause separate accounts to be kept of all expenses incurred in reducing rebellious zemindars, or other persons, with a view of obtaining reimbursement from the offenders.—Reg. II., 1793, sec. xlviii.

46. The Board of Revenue, who are hereafter to conduct the sales of land in the mode prescribed by the Regulations, without any reference to the Governor-General in Council, except in cases wherein they may require his instructions, are to consider themselves responsible for the careful execution of this duty, and are required to be particularly attentive to the proper selection of lands for sale by the collectors, as well as to the due allotment of the public assessment thereupon, in conformity to the Regulations. They are also authorized to fix the establishments of native officers which may be necessary during the attachments of lands for sale, the expense of which is to be defrayed from the produce of the lands, as provided in Section XXIII. (Regulation VII., 1799, "Realization of Revenue"); and statements of all such establishments are to be submitted by the collectors for their approval, as soon as possible after the attachment may take place. In preparing such statements, the collectors are to be careful not to propose a greater number of officers, or greater allowances to the officers employed, than may be indispensably necessary; and the Board of Revenue, in approving such establishments, are to give particular attention that this principle is duly observed. The collectors are also to nominate, for the approbation of the Board of Revenue, the aumeens and other principal native officers to be employed in the management of lands under attachment, with the sureties to be taken for their appearance under Section XV. of Regulation III., 1794 ("Public Officers"); and will be held responsible for the utmost regard to the qualifications and character of the persons so appointed by

them, as well as in all cases wherein native officers may be appointed by them to the charge of a khas collection, whether under this or any other Regulation.—Reg. VII., 1799, sec. xxx.

NOTE.—The preceding rule would seem to be almost entirely superseded by Act I., 1845.

47. In the execution of the duties vested in the Board of Revenue by this Regulation, as in all other cases, they are to be guided by any special orders or instructions which they may at any time receive from the Governor-General in Council (or Vice-President in Council), to whom they are to apply in all cases which they may consider unprovided for by the Regulations; or if it appear to them in any case, that a new *Regulation* would be advisable to be printed and published *in the form prescribed by Regulation XLI.*, 1793, they are to prepare such *Regulation* in the form so prescribed, with a letter stating at large the grounds on which it may be proposed, and copies of any documents therein referred to, which may not have been already transmitted to the Governor-General in Council. The collectors are also authorized to propose to the Board of Revenue, in the prescribed form, any *Regulations* regarding matters within their cognizance, which their local knowledge and experience may suggest to them as advisable to be adopted; and provided they are drawn out according to the form directed by *Regulation XLI.*, 1793, the Board of Revenue are to forward the same to the Governor-General in Council, whether they approve the *Regulation* proposed or otherwise. If they disapprove it altogether, they are to state the reasons of their disapproval in a letter to the Governor-General in Council, to accompany the *Regulation* proposed by the collector, or a copy of it, and copies of any letter and documents received from him in explanation of it. If they disapprove it in part only, and are of opinion that the remainder should be enacted into a *Regulation*, with any amendments they may think advisable, they are to state their objections to the part disapproved, and at the same time to submit to the Governor-General in Council a draught of the *Regulation* they judge expedient, with any requisite explanation of the amendments proposed by them.—Reg. VII., 1799, sec. xxxi.

*Benares.*

48. The Board of Revenue are to be careful that the collector performs his assigned duties, for which purpose they are vested with the same powers over him as they possess over the collectors in the other three provinces, by Regulation II., 1793; and they may accordingly summon him to the presidency to explain and justify his conduct, or suspend him from his office, or fine him in the manner and under the reservation set forth and provided in paragraphs 27 to 30.—Reg. V., 1795, sec. xxvii.

49. The Board of Revenue are vested with the same authority, in respect to requiring the attendance of natives concerned in the revenues, as they are empowered to exercise in Bengal, Behar, and Orissa, by paragraph 32, under the rules and restrictions therein specified.—Reg. V., 1795, sec. xxix.

50. [Section XXX., Regulation V., 1795.] *Same as paragraph* 33.

51. In all cases of a settlement being made with or on behalf of talookdárs, zemindars, putteedars, or other actual proprietors of land, their lands are to be declared in their engagements to be responsible for the payment of the revenue.—Reg. V., 1795, sec. xxxi.; Reg. VII., 1807, sec. ii.

52. [Section XXXII., Regulation V., 1795.] *Same as paragraph* 36.

53. Upon a settlement being concluded with any proprietor or farmer, conformably to the Regulations, the collector is to receive from him the usual cabooleat, and to sign and deliver the pottah in conformity thereto, after it shall have been attested by the seal and signature of the rajah, in pursuance of the agreement to that effect concluded between the rajah and the resident, under date the 17th of October, 1794.—Reg. V., 1795, sec. xxxiii.

54. [Section XXXIV., Regulation V., 1795.] *Same as paragraph* 38.

55. In cases in which, since the conclusion of the settlement, the rivers may have carried away so much of the ground included in the engagements of any zemindar or farmer, as to disable him from paying the stipulated revenue, the collector, after minute inquiry, is to report the circumstances, and the amount of the deficiency thereby occasioned, to the Board of Revenue, through whom the orders of the Governor-General in Council will be issued to the collector, for affording such relief to the party or parties as may appear necessary.—Reg. V., 1795, sec. xxxv.

56. [Section XXXVI., Regulation V., 1795.] *Same as paragraph* 41.

*Ceded and Conquered Provinces.*

57. The superintendence of the settlement and collection of the public revenue payable from the lands, and of all other duties committed to the collectors, is vested in the Board of Revenue.—Reg. XXV., 1803, sec. xxviii.

58. The Board of Revenue, who are empowered to conduct the sales of land in the mode prescribed, will consider themselves responsible for the careful execution of this duty; and are

required to be particularly attentive to the proper selection of lands for sale by the collectors, as well as to the due allotment of the public assessment thereupon, in conformity to the Regulations. They are also authorized to fix the establishments of native officers which may be necessary during the attachment of lands for sale, the expense of which shall be defrayed from the produce of the lands, as provided in Regulation XXVII., 1803 ("REALIZATION OF REVENUE"); and statements of all such establishments shall be submitted by the collectors, for their approval, as soon as possible after the attachment may take place. In preparing such statements, the collector shall be careful not to propose a greater number of officers, or greater allowances to the officers employed, than may be indispensably necessary; and the Board of Revenue, in approving such establishments, shall give particular attention that this principle is duly observed. The collectors shall also nominate, for the approbation of the Board of Revenue, the aumeens and other principal native officers to be employed in the management of lands under attachment, with the sureties to be taken for their appearance under Section II. of Regulation XXXIII., 1803 (PUBLIC OFFICERS); and will be held responsible for the utmost regard to the qualifications and character of the persons so appointed by them.—Reg. XXVI., 1803, sec. xxviii.

SUDDER BOARD, NORTH-WESTERN PROVINCES.

59. It shall be competent to the Governor-General in Council to depute one or more members of the Sudder Board, to be ordinarily stationed at *Allahabad*,* and to exercise exclusive control and direction over the revenue affairs of the tracts hereinafter mentioned, in like manner as is now exercised by the Sudder Board at the presidency.—Reg. X., 1831, sec. iii.

* Now at Agra, under the provisions of paragraph 65.

60. The jurisdiction of the Sudder Board in the North-Western Provinces shall comprise the tracts of country situated within the first to the ninth divisions inclusive, containing the districts specified in paragraph 3, together with the province of Kumaoon, and the Saugor and Nerbudda territories.—Reg. X., 1831, sec. v.

61. From and after the date of the promulgation of this Regulation, the Sudder Board of Revenue at the presidency, and the chief commissioner at Delhi, shall cease to exercise any interference with or control over the divisions and tracts specified in the preceding paragraph. Provided, however, that the Sudder Board of Revenue stationed at the presidency shall complete the decision of all cases now actually before them in appeal, or which may be appealed to them before the date fixed for the operation of this Regulation, and shall be competent to do and order all things necessary to the investigation and decision of the cases, or to the execution of such of their decrees or orders as may be in train of execution; excepting in cases in which the appellant may pray to have his case immediately transferred to the Sudder Board in the North-Western Provinces.—Reg. X., 1831, sec. vi.

62. In the conduct of the revenue duties of the tracts of country composing the province of Kumaoon, and the Saugor and Nerbudda territories, as well those relating to the customs, abkary, stamps, and other miscellaneous items, as to the land revenue, the local authorities shall observe the rules and principles of the general Regulations, with such limitations and restrictions as may be provided in the instructions they may receive from the Sudder Board in the North-Western Provinces, or the Governor-General in Council.—Reg X., 1831, sec. vii.

63. The whole of the powers and authority now vested in the Sudder Board at the presidency are hereby declared to belong to the members of the Board of Revenue in the North-Western Provinces, within the tracts subject to their control, so long as this Regulation shall remain in force, who shall also be guided in their official proceedings by the existing rules applicable to that Board, subject to such restrictions and provisions as the Governor-General in Council may prescribe.—Reg. X., 1831, sec. viii.

64. Whenever and so often as the number of members present with the Board in the North-Western Provinces shall be reduced to one, or when two shall be present, and a difference of opinion arise in regard to any matter which, under the existing Regulations, may require the concurrence of two voices, the question shall be referred for determination to the Sudder Board at the presidency. —Reg. X., 1831, sec. ix.

NOTE.—See the rules in paragraphs 19, 20.

65. It shall further be competent to the Governor-General in Council to fix the station at which the Sudder Board in the North-Western Provinces shall reside, at such place within the territories belonging to this presidency as may from time to time be deemed expedient.—Reg. X., 1831, sec. xi., cl. 2.

66. The Sudder Board of Revenue in the North-Western Provinces shall, from the date of the promulgation of this Regulation, possess and exercise a general power of control and supervision over the customs and duties, and over the officers charged with the administration of these branches of revenue in the province of Benares, the Ceded and Conquered Provinces, the territory formerly subject to the authority of the chief commissioner at Delhi, the province of Kumaoon, and the Saugor

and Nerbudda dependencies; and the Board of Customs, Salt, and Opium, shall cease to have any jurisdiction relating to customs and duties in the said tracts of country.—Reg. I., 1833, sec. iii.

CONSOLIDATION OF THE BOARD OF REVENUE AND BOARD OF CUSTOMS, SALT, AND OPIUM IN THE LOWER PROVINCES.

67. All powers and duties now vested in or belonging to the Board of Revenue in the Customs, Salt, and Opium department, and its officers respectively, shall be transferred to the Sudder Board of Revenue constituted in the said Lower Provinces according to Regulation I., 1829, of the Bengal code, and its officers respectively; and all Acts and Regulations now in force relating to the said Customs, Salt, and Opium Board of Revenue, or its officers, shall be understood henceforth as if the said Sudder Board of Revenue and its officers had been respectively mentioned therein, instead of the said Board of Customs, Salt, and Opium, and its officers.—Act XLIV., 1850, sec. ii.

68. The said Sudder Board of Revenue shall be henceforth styled the Board of Revenue for the Lower Provinces of the presidency of Fort William in Bengal.—Act XLIV., 1850, sec. iii.

## COLLECTORS.

### *Lower Provinces.*

69. From the 1st May, 1793, the Courts of Maal Adawlut, or revenue Courts, shall be abolished, and the trial of the suits which were cognizable in those Courts, as well as all judicial powers whatsoever heretofore vested in the collectors of the revenue or in the Board of Revenue collectively, as a Court of appeal, or in any member of that Board individually, shall be transferred to the Courts of Dewanny Adawlut.—Reg. II., 1793, sec. ii.

70. The collection of the revenue payable to Government from the estates in each zillah is to be committed, as heretofore, to a civil covenanted servant of the Company, who is to be styled collector of the revenue of the zillah to which he may be appointed. Previous to entering upon the execution of the duties of his office, he is to take the oath prescribed by paragraph 1, for servants of the Company employed in the management or collection of the revenue, before one of the judges of the Supreme Court of Judicature, or before such other person as may be authorized by an order of Government for the purpose.—Reg. II., 1793, sec. iii.; Reg. V., 1804, sec. xxv.

71. The collectors are to correspond with the Board of Revenue, and to conform to all instructions with which they have been furnished by that Board, and that are or may not be altered or revoked by this or any other Regulation published in the manner directed in Regulation XLI., 1793, and also to all instructions which the Board of Revenue may hereafter transmit to them.—Reg. II., 1793, sec. iv.

72. The collectors of the several zillahs are to use a circular seal, one inch and a half in diameter. The seals of the collectors in Bengal and Orissa are to bear an inscription to the following effect, in the Bengal and Persian characters and languages, and the seals of the collectors in Behar a similar inscription, in the Persian character and language, and the Hindostanny language and Nageree character: "The seal of the collector of the zillah of ....."—Reg. II., 1793, sec. v.

73. The collectors are to keep a regular diary of their official transactions, either in the English, Persian, or Bengal language, recording and attesting them with their official signature at the time they may take place.—Reg. II., 1793, sec. vi.

74. The duties prescribed in the following paragraph are to be performed by the collectors under the superintendence of the Board of Revenue.—Reg. II., 1793, sec. vii.

75. *First.* To collect the amount of the fixed revenue assessed upon the lands of the zemindars, independent talookdars, or other actual proprietors of land, with or on behalf of whom a settlement has been or may be concluded.

*Second.* To collect the stipulated annual revenue from the farmers of estates let in farm.

*Third.* To levy the rents and revenue from estates held khas.

*Fourth.* To make the future settlement of khas, or farmed estates, agreeably to the Regulations and instructions which they may receive for that purpose.

*Fifth.* To prosecute for the recovery of the dues of Government from lands of whatever description, held exempt from the payment of revenue under illegal or invalid tenures.

*Sixth.* To pay the pensions and allowances included in the public revenue, and the pensions and compensations granted in consequence of the abolition of the sayer.

*Seventh.* To execute the instructions which may be issued to them by the Court of Wards, regarding disqualified landholders and their estates.

*Eighth.* To superintend the division of landed property paying revenue to Government, which may be ordered to be divided into two or more distinct estates.

*Ninth.* To apportion the public revenue on lands ordered to be disposed of at public sale for the discharge of arrears of revenue.

*Tenth.* To collect the tax on spirituous liquors and intoxicating drugs or articles.

*Eleventh.* To perform the above, and all other duties, according to the rules that have been or may be prescribed to them, by any Regulation published in the manner directed in Regulation XLI., 1793.

*Twelfth.* To transmit such annual, monthly, or other accounts as they now furnish, or may be hereafter required to send by the Board of Revenue, or any officer under that Board empowered to require such accounts.

*Thirteenth.* To conform to all special orders that have been or may be issued to them by the Board of Revenue, or by public officers empowered to issue such orders.—Reg. II., 1793, sec. viii.

76. All native officers under the collector are to act agreeably to his orders and such rules as he may prescribe. They are not to perform any act of authority without his sanction or authority, under pain of being fined in a sum not exceeding six months' salary, or of being dismissed from their offices by the collector, the Board of Revenue, or the Governor-General in Council, and also of being sued in the Court of Judicature for damages by any person who may consider himself aggrieved by such unauthorized act.—Reg. II. 1793, sec. ix.; Reg. XV., 1813.

77. The collectors are prohibited from employing, directly or indirectly, their private servants, whether banyans or others, in the discharge of any part of their public duties, it being required that, in all matters relating to the trust committed to them, they act as the only empowered agents of Government. This prohibition, however, is not meant to restrict them from occasionally employing their assistants or their inferior public servants, in the cases, and in the manner in which they are authorized to make use of their agency.—Reg. II., 1793, sec. x.

78. The khezanchee, or native cash-keeper in each zillah, is to be nominated by the collector, who is to take good and sufficient security from him for the faithful discharge of his trust, and for making good all deficiencies in the public money that may be committed to his charge. The collector is to transmit the names of the person whom he may nominate to the office of khezanchee, and of his surety, with a copy of the engagement, executed by the latter, to the Board of Revenue; but the person so nominated shall not be considered as appointed until the Board of Revenue shall have signified their approbation both of him and his surety. The native cash-keeper so appointed shall not be removed but for misconduct, or other sufficient cause, proved to the satisfaction of the Board of Revenue; and he and the collector shall be held jointly and severally responsible to Government for the public money committed to their charge.—Reg. II., 1793, sec. xi.

79. All issues from the treasuries of the collectors are to be made under a warrant signed by the collector, and sealed with the seal of the zillah. The native cash-keeper is prohibited paying any money without such written authority, under the penalty of being made responsible for it should the payment be afterwards found to have been unduly made. These warrants are to be numbered, and a register of them is to be kept in the current language of the country by the keepers of the native records, who are to attest, by their respective signatures on the face of the warrant, that it has been duly registered.—Reg. II., 1793, sec. xii.; Reg. XV., 1813.

80. The collectors are to transmit to the Board of Revenue regular notice of all appointments and removals, and are to employ none but such public and registered officers in matters in any respect relating to their official duty, and are not, under any plea or pretext, to confer on their public officers any private trust relating to their personal concerns.—Reg. II., 1793, sec. xiii.

NOTE.—Sec vi., Reg. III., 1829, paragraph 145, explains the corresponding rule for the Ceded Provinces, but does not apply the explanation to this the original rule.

81. In the event of the death or removal of a collector, or of his absence from his station, the senior assistant on the spot is to perform the duties of collector, and the public officers of the collectorship are accordingly to obey his orders.—Reg. II., 1793, sec. xiv.

82. No collector, assistant to a collector, or any native in the employ of a collector or of an assistant, shall hold, directly or indirectly, any farm, or be concerned on their private account in the collection or payment of the revenue of any lands in the zillah, either as farmer, surety, or otherwise; and native officers and private servants and dependents of collectors and assistants are prohibited from purchasing, directly or indirectly, any land that the collector may dispose of at public sale, under the penalty of forfeiting the property to Government, upon proof being made, to the satisfaction of the Governor-General in Council, of the property having been so purchased. —Reg. II., 1793, sec. xv.

83. The rules in the preceding paragraph, however, are not to be considered to prohibit a native officer of a collector, or any private servant of a collector or of an assistant, from purchasing bonâ fide the proprietary right in lands situated in the zillah, by private sale.—Reg. II., 1793, sec. xvi.

84. No collector shall accept the security of a European for any farmer, dependent talookdar, or ryot.—Reg. II., 1793, sec. xvii.; Act IV., 1837.

85. No collector or assistant, shall, directly or indirectly, carry on any trade, or be concerned in any commercial transaction whatever. This prohibition, with regard to collectors and their assistants, is declared to extend to the purchase, directly or indirectly, of any goods or commodities in the British dominions in Bengal, for the purpose of remitting money to Europe.—Reg. II., 1793, sec. xviii.

86. The collectors are to be careful that the accounts and records of their respective zillahs are kept complete and duly preserved.—Reg. II., 1793, sec. xx.

87. To render the several zillahs as compact as possible, the collectors are to report every instance in which lands included in their respective zillahs may be circumscribed by any other zillah, and also where lands including other zillahs are circumscribed by their own zillahs, in order that such lands may be annexed to the zillah by which they are circumscribed. The collectors are also to send information to the Board of Revenue of any parts of their zillahs which may be intersected by the rivers Ganges, Megna, or Berampootre.—Reg. II., 1793, sec. xxi.

88. The collectors are not to employ sepoys in the collection of the public revenue.—Reg. II., 1793, sec. xxii.

89. Collectors are not to advance money on account of tuccavy, without the express sanction of the Board of Revenue.—Reg. II., 1793, sec. xxiii.

90. The collectors are prohibited deputing any person into the zillah of any other collector, or exercising any authority beyond the limits of their respective zillahs, excepting in cases in which they may be authorized so to do by a regulation published in the manner directed in Regulation XLI., 1793, or by special orders from a competent authority.—Reg. II., 1793, sec. xxiv.

91. The collectors are to give monthly receipts for all payments of revenue into their treasuries, specifying the date or dates on which the money may be received, and the species of rupee in which each payment may be made. The keepers of the native records are to keep a register of these receipts regularly numbered. After having registered the receipts, they are to attest on the face of them the date on which they may be registered. A copy of this register is to be transmitted monthly to the Board of Revenue, or as often as that Board may require. A similar register of receipts is to be kept by all tehsildars, sezawuls, or other native officers intrusted with the immediate collection of the public revenue, and a copy of it is to be transmitted to the collector monthly, or as often as he may require.—Reg. II., 1793, sec. xxv.

92. The monthly, or other receipts, for salaries, pensions, or allowances, of whatever kind, which may be paid by the collectors, are to be deposited amongst the public records of their respective zillahs, and a register of them is to be kept by the keepers of the native records. A copy of the register is to be transmitted annually to the Board of Revenue.—Reg. II., 1793, sec. xxvi.

93. To prevent loss of revenue or confusion in accounts from the resignation or removal of collectors, no collector is to be permitted to depart from his station, until he shall have either delivered over complete charge of his trust to his successor or to his assistant, and until notification shall have been made to the Board of Revenue of his having complied with this rule, and their sanction shall have been obtained for his departure. This rule shall on no account be dispensed with, unless by special permission from the Board of Revenue, which is to be granted only in particular cases that may appear to them to require it.—Reg. II., 1793, sec. xxvii.

### *Benares.*

94. The collection of the public revenue, whether arising from the customs, or the lands, or other source, is to be committed to one covenanted civil servant of the Company, who is to be styled, in his capacity of collector of the customs, "Collector of the Customs in the province of Benares;" and in his capacity of collector of the land and other revenues exclusive of the customs, "Collector of the Revenue in the zillahs and places in the province of Benares."—Reg. V., 1795, sec. ii., cl. 1.

95. As collector of the customs, the collector, previous to entering upon the execution of the duties of his office, is to take and subscribe an oath similar to that prescribed to the collector of the Government customs.—Reg. V., 1795, sec. ii., cl. 2.

96. As collector of the land and other revenues exclusive of the customs, he is to take and subscribe the oath prescribed by paragraph 1 for servants of the Company employed in the collection of the revenue.—Reg. V., 1795, sec. ii., cl. 3.

97. In his capacity of collector of the customs, the collector is to conform to such Regulations relating to his office as may be printed and published in the manner prescribed in Regulation XLI., 1793, and is to correspond with and obey all orders which he may receive from the Board of Trade or the Governor-General in Council.—Reg. V., 1795, sec. iii., cl. 1.

98. As collector of the land and other revenues exclusive of the customs, he is to correspond with, and obey all orders which may be transmitted to him by the Board of Revenue and the Governor-General in Council, and is to conform to the rules contained in the following paragraphs.—Reg. V., 1795, sec. iii., cl. 2.

99. The collector is to use a circular seal, one inch and a half in diameter, with an inscription to the following effect, in the Persian character and language, and the Hindostanee language and Nageree character, "The seal of the collector of Benares."—Reg. V., 1795, sec. iv.

100. [Section V., Regulation V., 1795.] *Same as paragraph 78, substituting* "Hindostanee" *for* "Bengalee."

101. The duties prescribed in the following paragraph are to be performed by the collector, under the superintendence of the Board of Revenue.—Reg. V., 1795, sec. vi.

102. *First.* To collect the amount of the fixed revenue assessed upon the lands of the talookdars, zemindars, putteedars, distinct or common, or other actual proprietors of land.

*Second.* To collect the stipulated annual revenue from the farmers of estates let in farm.

*Third.* To collect the public dues from estates held amauny (estates for the payment of the revenue of which no settlement has been concluded or may subsist).

*Fourth.* To make the future settlement of amauny and farmed estates agreeably to the Regulations and the instructions which he may receive for that purpose; observing it as a general rule, in forming the settlement of all lands held amauny, that the public revenue to be paid to Government is to be fixed according to the actual jydaad or existing funds, arising from the lands in cultivation, after deducting ten per cent. from such funds, for the charges of management, and the profits of the party with whom the settlement may be made, and adding, where there is much uncultivated ground within the limits of the lands to be included in the settlement, a moderate russud or progressive increase, for the four or five first years of it. The settlement of lands let in farm to be made on the death of the farmer will regard only the determination respecting the person who is to succeed to the lease, and is not to affect the amount of the public revenue assessed on the lands included in the lease, which in all farmed estates is to continue unalterable, as it may have been fixed by the rules regarding the permanent settlement concluded in, or subsequent to, the Fusly year 1197. But if the parties entitled to re-enter into possession as zemindars, on the avoidance of the lease of any farmer under the operation of Section III., Regulation I., 1795 ("SETTLEMENT"), shall not accept of reinstatement on condition of paying the existing fixed jumma, they shall not be entitled to be restored in future, unless they agree to the payment of a jumma to be adjusted agreeably to the rules above prescribed for forming the settlement of amauny lands in general, or such other conditions as shall be prescribed by the Governor-General in Council.

*Fifth.* To prosecute for the recovery of the dues of Government from lands, of whatever description, held exempt from the payment of revenue under illegal or invalid tenures.

*Sixth.* To pay the pensions and allowances included in, or chargeable on, the public revenue, inclusive of those granted in lieu of former charitable assignments on the abolished sayer, according to the separate regulation for those purposes.

*Seventh.* To execute the instructions of the Court of Wards regarding disqualified landholders and their estates, whenever the jurisdiction of that Court shall be extended to Benares.

*Eighth.* To superintend the division of, and to apportion the jumma on landed property paying revenue to Government, which, whether from private sale, donation, or otherwise, from being joint and undivided, may become separated into two or more distinct estates, in conformity to Section VII., Regulation XXVII., 1795 ("SETTLEMENT"), and Regulation XIX., 1814 ("DIVISION OF ESTATES").

*Ninth.* To apportion the revenue on any part or parts of estates ordered to be disposed of by public sale, for the discharge of arrears of revenue, agreeably to the principles prescribed in Section VII., Regulation XXVII., 1795 ("SETTLEMENT").

*Tenth.* To collect the tax on spirituous liquors and intoxicating drugs or articles, and the tax of ghur dewary or khanah shoomary, according to the separate regulation for that purpose.

*Eleventh.* To perform the above, and all other duties, according to the rules that have been, or may be prescribed to him, by any regulation published in the manner directed in Regulation XLI., 1793.

*Twelfth.* To transmit such annual, monthly, or other accounts, as were furnished by the late resident, or as may be hereafter required to be sent by the Board of Revenue, or any officer under that Board empowered to require such accounts.

*Thirteenth.* To conform to all special orders that may be issued to him by the Board of Revenue, or by public officers empowered to issue such orders.—Reg. V., 1795, sec. vii.

103. On complaints being preferred by any of the malguzars and ryots of the rajah's family zemindarry of Gungapoor, and of his jaghires of Budhoee and Kera Mungrore, the collector is to cause redress to be afforded to the complainants, in the manner pointed out in the agreement concluded between the rajah and the resident on the 27th of October, 1794, as prescribed in Section III., Regulation XV., 1795 (SETTLEMENT"); corresponding on such matters, when necessary, immediately with the Governor-General in Council.—Reg. V., 1795, sec. viii.

NOTE.—See Regulation VII., 1828, ("SETTLEMENT").

104. The serishtadar and all native officers [*&c., as in paragraph* 76.]—Reg. V., 1795, sec. ix.

105. [Section X., Regulation V., 1795.] *Same as paragraph* 77.

106. The khezanchee, or native cash-keeper at Benares, is to act under the orders of the collector, who is to report to the Board of Revenue all instances in which he may have cause of complaint against the khezanchee or his agents. The khezanchee is not to be removed from his office without the sanction of the Governor-General in Council.—Reg. V., 1795, sec. xi.

107 to 112. [Sections XII to XVII., Regulation V., 1795.] *Same as paragraphs* 79 *to* 84.

113. [Section XVIII., Regulation V., 1795.] *Same as paragraph* 85, *substituting* "the provinces of Benares, Bengal, Behar, or Orissa," *for* "the British dominions in Bengal."

114 to 116. [Sections XX., XXI., and XXII., Regulation V., 1795.] *Same as paragraphs* 86, 88, and 89.

117. The collector is to give monthly receipts, under the joint attestations of himself and of the rajah, for all payments of revenue into the treasury—[*the remainder as in paragraph* 91].—Reg. V., 1795, sec. xxiii.

118 and 119. [Sections XXIV. and XXV., Regulation V., 1795.] *Same as paragraphs* 92 *and* 93.

120. The collector may depute his assistant to make occasional local inquiries into the causes of balances or deficiencies in the revenue; but he is forthwith to advise the Board of Revenue of such deputations, and to conform to the instructions with which they may furnish him.—Reg. V., 1795, sec. xxviii.

*Ceded and Conquered Provinces.*

121. The collection of the Revenue payable to Government from the estates in each zillah shall be committed to a civil covenanted servant of the Company, who shall be styled "Collector of the Revenue" of the zillah to which he shall be appointed. Previously to entering upon the execution of the duties of his office, he shall take the oath prescribed by Act of Parliament (paragraph 1) for servants of the Company employed in the management or collection of the revenue, before one of the judges of the Supreme Court of Judicature, or before such other person as the Governor-General in Council shall authorize to administer the same.—Reg. XXV., 1803, sec. ii.

122. The collectors shall correspond with the Board of Revenue, and shall conform to all instructions with which they have been or shall be furnished by that Board, and which shall not be contrary to this or any other Regulation published in the manner directed in Regulation I., 1803.—Reg. XXV., 1803, sec. iii.

123. The collectors of the several zillahs shall use a circular seal, one inch and a half in diameter, bearing an inscription thereon to the following effect, in the Persian character and language, and in the Hindostanee language and Nageree character: "The seal of the collector of the zillah of ————."—Reg. XXV., 1803, sec. iv.

124. [Section V., Regulation XXV., 1803.] *Same as paragraph* 73, *substituting* "Hindostanee" *for* "Bengal."

125. The duties prescribed in the following paragraph shall be performed by the collectors, under the superintendence of the Board of Revenue.—Reg. XXV., 1803, sec. vi.

126. *First.* To collect the amount of the Revenue assessed upon the lands of the zemindars, independant talookdars, or other actual proprietors of land, with or on behalf of whom a settlement has been or shall be concluded.

*Second.* To collect the stipulated annual revenue from the farmers of estates let in farm.

*Third.* To levy the rents and revenue from estates held khas or amauny.

*Fourth.* To make the future settlement of khas, or of farmed estates, agreeably to the Regulations and the instructions which they shall receive for that purpose.

*Fifth.* To prosecute for the recovery of the dues of Government from lands, of whatever description, held exempt from the payment of revenue under illegal or invalid tenures.

*Sixth.* To pay the pensions and allowances included in, or chargeable on, the public revenue, and all other pensions and compensations, which shall be granted or confirmed under Regulation XXIV., 1803 ("Pensions").

*Seventh.* To execute the instructions which shall be issued to them by the Court of Wards, regarding disqualified landholders and their estates.

*Eighth.* To superintend the division of landed property paying revenue to Government, which shall be ordered to be divided into two or more distinct estates.

*Ninth.* To apportion the public revenue on lands ordered to be disposed of at public sale for the discharge of arrears of revenue or in satisfaction of the decrees of the Courts of Judicature.

*Tenth.* To collect the tax on spirituous liquors and intoxicating drugs or articles.

*Eleventh.* To perform the above and all other duties, according to the rules which have been or shall be prescribed to them by any Regulation published in the manner directed in Regulation I., 1803.

*Twelfth.* To transmit such annual, monthly or other accounts, as they now furnish, or shall be

hereafter required to send, by the Board of Revenue, or any officer under that Board, empowered to require such accounts.

*Thirteenth.* To conform to all special orders which have been or shall be issued to them by the Board of Revenue, or by public officers empowered to issue such orders.—Reg. XXV., 1803, sec. vii.

127. The native officers under the collector shall act agreeably to his orders and to such rules as he shall prescribe. Those officers shall not perform any act of authority without the sanction or authority of the collector, under pain of being fined in a sum not exceeding six months' salary, or of being dismissed from their offices by a competent authority, and also of being sued in the Court of Judicature for damages by any person who shall consider himself to be aggrieved by such unauthorized act.—Reg. XXV., 1803, sec. viii.

128. [Section IX., Regulation XXV., 1803.] *Same as paragraph* 77.

129. [Section X., Regulation XXV., 1803.] *Same as paragraph* 78, *substituting* "the approbation of the Governor-General in Council" *for* "their (i. e. Board of Revenue's) approbation."

130. [Section XI., Regulation XXV., 1803.] *Same as paragraph* 79.

131. The collectors are prohibited from employing any persons, excepting public and registered officers, in matters in any respect relating to their official duty; and shall not, under any plea or pretext, confer on their public officers any private trust relating to their personal concerns.—Reg. XXV., 1803, sec. xii.

132. In the event of the death or removal of a collector, or of his absence from his station, and when no other person shall have been appointed thereto, the senior assistant on the spot shall perform the duties of collector, and the public officers of the collectorship shall accordingly obey his orders.—Reg. XXV., 1803, sec. xiii.

133 and 134. [Sections XIV. and XV., Regulation XXV., 1803.] *Same as paragraphs* 82 *and* 83.

135. No collector shall, directly or indirectly, accept the security of a European, for any tehseeldar, zemindar, farmer, dependant talookdar, or ryot.—Reg. XXV., 1803, sec. xvi.

136. [Section XVII., Regulation XXV., 1803.] *Same as paragraph* 85, *substituting* "subject to the immediate government of the presidency of Fort William" *for* "in Bengal."

137. [Section XIX., Regulation XXV., 1803.] *Same as paragraph* 86.

138. [Section XX., Regulation XXV., 1803.] *Same as paragraph* 87, *stopping at* "circumscribed."

139 to 144. [Sections XXI. to XXVI., Regulation XXV. 1803.] *Same as paragraphs* 88 *to* 93.

145. Such parts of paragraph 131 as have been construed to prohibit collectors from employing any persons not being public officers, duly appointed or nominated in conformity with the rules in force relative to such appointments, in the discharge of any part of their public duties, are hereby declared not to extend to the employment of individuals in the copying of papers and proceedings, or in similar functions, for the due execution of which the proper officers must be held responsible. The rules, however, contained in that paragraph, and in Regulations II., 1793, and V., 1795, prohibiting collectors and judicial officers from so employing, directly or indirectly, their private servants, of whatever description, shall remain in full force.—Reg. III., 1829, sec. vi.

### *General Rules.*

146. It is and shall be lawful for the Governor-General in Council to cause such alterations to be made in the limits of the several collectorships, and in the number of the officers employed as collectors of land revenue, as may from time to time appear expedient, as well as to vest such officers, being covenanted servants of the Honourable Company, with authority to exercise the whole or any part of the functions ordinarily exercised by collectors of land revenue in such mehal or mehals belonging to such district or districts as may from time to time be deemed expedient; and any officers so employed shall perform their prescribed duties in the same manner, and subject to the same condition and liabilities, as attach to collectors of land revenue in regard to such duties.—Reg. IV., 1821, sec. viii., cl. 1.

147. It shall also be competent to the Board of Revenue, or other authority exercising the powers of that Board, to depute any of the officers subordinate to their authority, to exercise and perform all or any of the powers and duties ordinarily vested in collectors of land revenue within such local limits as they may judge expedient; provided, however, that in all such cases the Board, or other authority aforesaid, shall, on the day in which they may depute any officer as aforesaid, or as soon after as practicable, report their having done so for the information and orders of the Governor-General in Council.—Reg. IV., 1821, sec. viii., cl. 2.

148. All rules in this or any other Regulation, whereby any duties or powers may be prescribed for, or vested in collectors, shall be held and considered to be equally applicable to any officer

exercising the authority of collector under the orders, or with the sanction of the Governor-General in Council.—Reg. VII., 1822, sec. xxxv.

## ASSISTANT COLLECTORS.

149. The collectors of revenue are hereby authorized, with the sanction of the Board of Revenue, to delegate to their assistants any part of their prescribed duties which, from the extent of their general business, or other cause, they may be unable to give due attention to themselves; provided always, that in the event of a collector deputing his assistant to make local inquiries, or for any other purpose connected with the collection of the public revenue, he shall immediately report the same for the information and orders of the Board of Revenue to which he may be subordinate.—Reg. IV., 1821, sec. viii., cl. 3.

NOTE.—Sec. xxi., Reg. VIII., 1831, restricts the preceding rule as regards summary suits for rent ("REALIZATION OF RENT").

150. Previously to entering upon the duties of his office, an assistant to a collector shall take and subscribe an oath corresponding with that prescribed by paragraph 1, for servants of the Company employed in the management and collection of the public revenue.—Reg. IV., 1821, sec. viii., cl. 4.

151. Assistants, or other officers exercising the powers of collectors of revenue, or any portion thereof, under the provisions of this Regulation, shall be guided in every respect by the Regulations which have been, or may be, enacted for the management and collection of the revenue, as far as the same may be applicable to the duties committed to them respectively, and shall be considered responsible for the due performance of the duties intrusted to them, and shall be amenable to the Civil Courts of Judicature for any acts done by them in their official capacity, in opposition to the Regulations, in the same manner, and under the same rules, as the collectors of revenue.—Reg. IV., 1821, sec. viii., cl. 5.

## DEPUTY-COLLECTORS.

152. It shall be competent to the Governor-General in Council to appoint to any revenue jurisdiction a deputy-collector, with the powers hereinafter specified.—Reg. IX., 1833, sec. xvi.

153. The office of deputy-collector shall be open to natives of India of any class or religious persuasion. The persons selected shall be appointed by the Governor-General in Council, and shall receive their commissions from Government in the usual mode, under the signature of the secretary in the revenue department.—Reg. IX., 1833, sec. xvii.

154. The deputy-collectors will receive a monthly allowance, to be fixed by the Governor-General in Council, and to be susceptible of increase, from time to time, as their conduct may appear to entitle them respectively to such consideration.—Reg. IX., 1833, sec. xviii.

155. Every person appointed to the office of deputy-collector under this Regulation shall, previously to entering upon the execution of the duties of his situation, make and prescribe before the collector of the district in which he may be employed, a solemn declaration in the form of the oath required, under paragraph 1, to be taken by persons employed in the collection of the public revenue. —Reg. IX., 1833, sec. xix.

156. The deputy-collectors appointed under this Regulation are to be in all respects subordinate to the collector under whom they may be placed, and are required to perform all duties assigned to them by that functionary.—Reg. IX., 1833, sec. xx.

157. It will be at the discretion of the latter officer to employ them in settlement duties under the provisions of Regulation VII., 1822, in the superintendence of the Government khas mehauls, and generally in the transaction of any other part of the duties of a collector.—Reg. IX., 1833, sec. xxi.

158. All proceedings held by a deputy-collector appointed under this Regulation shall be recorded in his own name and on his own responsibility, subject to the revision and control of the collector, and appealable to the superior authorities in the usual course.—Reg. IX., 1833, sec. xxii.

159. Provided always, that the collector is competent to resume the duties which he may have committed to the deputy, assigning his reasons for so doing for the information of the commissioner.—Reg. IX., 1833, sec. xxiii.

160. Provided also, that the revenue commissioners, whenever they think proper, may interfere with any arrangements made by the collectors for the employment of the deputies, or the distribution of business to be assigned to those functionaries, subject to the general control vested in the Sudder Board of Revenue or the Government, as the case may be.—Reg. IX., 1833, sec. xxiv.

161. A deputy, appointed under this Regulation, shall not be removable but for misconduct, and with the sanction of the Governor-General in Council. Whenever there may be reason to believe that a deputy is disqualified by neglect, incapacity, or corruption, for continuance in office, a report shall be submitted by the local authorities, through the channel of the Sudder Board of Revenue, for the consideration of the Governor-General in Council, who shall be competent to suspend him, and

order a further inquiry into the conduct of such deputy, or to direct his immediate dismissal, as may appear just and proper.—Reg. IX., 1833, sec. xxv.

NOTE.—See the rules defining what is meant by the term "independent deputy collector," and the powers of such officers, under ("REALIZATION OF RENT,") paragraphs 117 to 120.

## COMMISSIONER IN THE SUNDERBUNS.

162. An officer shall be appointed under the appellation of Commissioner in the Sunderbuns. The commissioner in the Sunderbuns shall be vested, within such local limits as may be from time to time established by the Governor-General in Council, with all the duties, powers, and authority which have been or may be exercised by the collectors of land revenue (including the charge of the abkary mehal) under the rules and Regulations which may have been or may be enacted; and shall be subject to the control and superintendence of the Board of Revenue, in the same manner as the collectors of the several zillahs situated within the limits of their authority.—Reg. IX., 1816, sec. ii.

## CANOONGOES.

NOTE.—The Regulations for re-establishing the office of Canoongoe are,—

| | | |
|---|---|---|
| 1808. | IV. | Ceded and Conquered Provinces and Benares. |
| 1816. | II | Shahabad, Tirhoot, Sarun, and Behar. |
| 1816. | V. | Cuttack and Puttaspore. |
| 1817. | II. | Province of Behar. |
| 1817. | XIII. | Hidgelee and Midnapore. |
| 1818. | I. | 24-Pergunnahs, Nuddea, Jessore, Dacca Jelalpore, and Backergunge. |
| 1819. | I., sec. iv., cl. 1. | Throughout Bengal. |

The provisions of Regulation V., 1816, are, with a few verbal changes of no importance, the same as those of the two preceding Regulations, and the Regulations subsequent to Regulation V., 1816, merely extend its provisions; under these circumstances, it has been deemed sufficient to print Regulation V., 1816, with the few rules in addition thereto, which were enacted in Regulation I., 1819.

163. One or two persons shall be appointed to fill the office of canoongoe in every pergunnah, unless the small extent of a pergunnah shall render it advisable to place more than one pergunnah under the same canoongoe.—Reg. V., 1816, sec. ii.

164. These officers shall be nominated by the collectors, within their respective local jurisdictions, for the approval of the Board of Revenue, and shall not be removeable from office, except for sufficient cause proved to the satisfaction of that authority, under the provisions of Regulation V., 1804, and Regulation VIII., 1809 ("PUBLIC OFFICERS").—Reg. V. 1816, sec. iii.

165. The office of canoongoe is declared not to be hereditary; but in all pergunnahs in which persons may be found who formerly discharged the duties of canoongoe, the officers to be appointed under this Regulation shall, as far as practicable, be selected from among them; and in supplying future vacancies, the collectors shall make it a rule, in all practicable cases, to select from the families of the canoongoes such persons as from character, education, and acquirements shall be best qualified to perform the duty.—Reg. V., 1816, sec. iv.

166. The canoongoes appointed under this Regulation shall receive such salaries as the Governor-General in Council may think proper to fix for their support. The salaries so granted shall be considered to preclude all claims to further pecuniary allowances, under the denomination of nankar, or any other denomination. It is also hereby declared, that the revenue of all lands, the grant of which may be found to have been obtained by any person in virtue of his discharging the duties of canoongoes, will be liable to resumption by Government; and that this rule shall be considered applicable both to the persons who may be appointed to the office of canoongoe under the present Regulation, and to those who may not be employed in the public service. Nothing, however, contained in this provision shall be construed to preclude the Governor-General in Council from continuing to either of those classes of persons the whole or a part of the lands held by them respectively free of assessment, in those cases in which the circumstances of the parties may appear to require that indulgence.—Reg. V., 1816, sec. v.

167. The above rule is not to preclude claims to rent-free lands, or pensions held by the canoongoes under grants made to the individuals for reasons unconnected with the office of canoongoe.—Reg. V., 1816, sec. vi.

168. The canoongoes are to execute the duties herein specified.

1st. To keep a counterpart jumma wassil bawkee, or account of the collections made by the tehsildars, or by sezawuls, from lands held khaus, or under attachment.

2nd. To keep an account of all lands held under rent-free tenures, whether the grants be hereditary or otherwise, and to report to the collector all escheats of such lands to Government.

3rd. To keep a list of the putwarries in each village, and a register of pottahs granted by the landholders to their under-tenants.

4th. To keep a register of all transfers of estates by sale (public or private), mortgage, lease, or otherwise, and to attest such transfers at the request of the parties, without fee or gratuity, with their official signatures.

5th. To compile information regarding local boundaries of pergunnahs and estates; the number and names of villages, articles of produce, rates of rent, rules and customs established in each pergunnah; and to furnish, at the requisition of the Courts of justice and of the collectors, all local information without their cognizance.

6th. To assist at all admeasurements of land, whether undertaken by the officers of Government in conformity to the Regulations, or by the landholders or ryots, and to record the same.

7th. To prepare and keep the information and accounts directed in this or any future Regulation, in such manner and form as may be from time to time prescribed by the Board of Revenue.

8th. To report to the collector the death of a malguzar and the name of his heirs, and to keep a register of all successions to lands.—Reg. V., 1816, sec. vii.

169. Persons who may be selected to fill the office of canoongoe are hereby prohibited from holding farms, or from becoming sureties for farmers or zemindars, within the local limits of their official duties.—Reg. V., 1816, sec. viii.

170. On the death, resignation, or removal of a canoongoe, the records of the office are to be made over to his successor, and the magistrate of the zillah is enjoined, on the application of the collector, to interpose his authority, in all cases in which it may be necessary to enforce the surrender of such records.—Reg. V., 1816, sec. ix.

171. The refusal or manifest evasion of any person in possession of the records mentioned in the preceding paragraph to deliver them up on the requisition of the magistrate, is hereby declared to subject the party so offending, on proof thereof, to the penalties prescribed by the Regulations for resistance to the process of the magistrate.—Reg. V., 1816, sec. x.

172. Nothing herein contained shall be construed to preclude the Governor-General in Council from exercising the right of decreasing the number of canoongoes; of abolishing the office in any pergunnah where from local circumstances the duty may be performed by less than two persons or by the canoongoes in a neighbouring pergunnah; nor from exercising the right to increase the number of canoongoes in any pergunnah where, from circumstances, more than two may be found necessary.—Reg. V., 1816, sec. xi.

173. The collectors are enjoined to report to Government, through the usual channel, all instances wherein they may deem it expedient to increase or diminish the number of canoongoes in a pergunnah, with their reasons at large for such opinion.—Reg. V., 1816, sec. xii.

174. In cases in which it may not appear advisable, from whatever cause, to leave the selection and nomination of the canoongoes to the collector of the district, it shall be competent to the Governor-General in Council to appoint such other officer specially to perform that duty, as he may judge expedient; and the officer so appointed shall have and exercise, during such period as the Governor-General in Council may direct, the same powers as are vested generally in collectors of land revenue, under the preceding provisions, and the provisions of Regulation XII., 1817. But nothing herein contained shall be construed to preclude the person holding permanently the office of collector in such district, from discharging the ordinary duties of his situation, under the general rules and regulations applicable to that branch of the public service.—Reg. I., 1819, sec. iv., cl. 3.

175. Provided further, that it shall be competent to the Governor-General in Council to suspend the operation of the preceding rules regarding canoongoes, within any mehauls in which the establishment of such officers, as prescribed in those rules, may appear to be inexpedient.—Reg. I., 1819, sec. iv., cl. 4.

176. Provided likewise, that it shall be competent to the Board of Revenue, or other authority exercising the powers of that Board, to make such alteration in the duties to be performed by canoongoes as local circumstances shall suggest; anything in paragraph 168 to the contrary notwithstanding.—Reg. I., 1819, sec. iv., cl. 5.

## PUTWARRIES.

NOTE.—The office of Putwarry was reorganized by Reg. XII., 1817, in the Ceded and Conquered Provinces, the provinces of Behar and Benares, the district of Cuttack, and the pergunnah of Puttaspore; and the provisions of that Regulation were extended to the whole of the provinces of Bengal by cl. 2, sec. ii., Reg. I., 1819.

177. Every village paying, or liable to pay, the public revenue, shall have a separate putwarry, except in cases where the Board of Revenue, or other authority exercising the power of that Board, shall, in consideration of former usage or other sufficient cause, authorize one putwarry to do the duty of two or more villages, or direct two or more putwarries to be established in a single village.—Reg. XII., 1817, sec. iii.

178. All persons at present holding the office of putwarry are to be continued in their situations, subject to removal under the rules hereinafter prescribed. And all zemindars or other proprietors of any village or villages, paying revenue to Government, or farmers engaging with Government for the public revenue, shall, within three months from the promulgation of this Regulation, transmit to

the collector of the district a statement showing the name or names of such village and villages, with the name or names of the putwarry or putwarries of such village or villages.—Reg. XII., 1817, sec. iv.

179. In like manner, where any village or villages paying revenue to Government shall at present have no putwarry established therein, the zemindar or other landholder or farmer of such village or villages, engaging with Government for the public revenue, shall proceed to nominate a putwarry or putwarries for such village or villages, and shall report such nomination to the collector of the district within three months of the promulgation of this Regulation.—Reg. XII., 1817, sec. v.

180. The collectors shall, as soon as practicable, prepare a register of the putwarries in their respective districts, showing the name of each individual, and the village or villages in which he officiates.—Reg. XII., 1817, sec. vi.

181. Whenever a vacancy may occur in the office of putwarry, such vacancy shall be filled on the nomination of the zemindar, or other landholder or farmer, engaging with Government for the public revenue, who is hereby enjoined to report such nomination to the collector of the district within one month after the vacancy has taken place; provided, however, that in such nomination the zemindar, or other landholder or farmer, shall be generally guided by the custom which may heretofore have prevailed in the village, in respect to the succession of putwarries, and shall not deviate therefrom without previously obtaining the sanction of the collector; and it shall be the duty of the collectors carefully to see that this rule is observed, and particularly that the just rights of the inferior putteedars, or sharers in joint undivided estates, and of dependent talookdars, or other under-tenants of the lands, as connected with the appointment of putwarries, are duly maintained.—Reg. XII., 1817, sec. vii.

182. On receiving the report of the nomination of a putwarry, as directed to be made in the foregoing paragraph, the collector is to insert the name of the party in the register of putwarries for his district, unless he shall see good and sufficient ground to object to the person so nominated as disqualified for the office,—in which case he is immediately to submit his objections to the Board of Revenue, and the Board will decide whether the zemindar or farmer shall be called upon to nominate another person, or pass such other order on the question as may appear just and right.—Reg. XII., 1817, sec. viii.

183. The proprietors of joint and undivided estates engaging jointly for the public revenue shall be considered jointly and severally bound to furnish the collector with the statement required in paragraph 178, and to nominate a putwarry in the mode prescribed in paragraphs 179 and 182, or to show sufficient cause for their failing to do so.—Reg. XII., 1817, sec. ix.

184. In all cases in which any village or villages, or any lands whatsoever, the accounts of which may be kept by a single putwarry, shall be held by two or more persons under distinct engagements with Government, it shall be competent to the collector, with the approval of the Board of Revenue, or other authority exercising the powers of that Board, to assume the direct nomination and appointment of such putwarry, with or without a reference to the proprietors. But in all such cases the collector shall deviate as little as possible from established usage, and shall be careful to consult the inclinations, and maintain the interests, of all persons connected with the mehauls in question.—Reg. I., 1819, sec. v.

185. In estates held khas, and in estates under the superintendence of the Court of Wards, the putwarry shall be appointed by the collector.—Reg. XII., 1817, sec. x.

186. Should any zemindar, or other proprietor or farmer, refuse or omit to furnish the statement required by paragraph 178, or to nominate a putwarry in the cases provided for in paragraphs 179 and 182, within the time prescribed in those paragraphs, and shall fail to show good cause for such neglect or failure, it shall be competent to the collector, with the approval of the Board of Revenue, to levy a daily fine upon him, until a putwarry is nominated, or with such approval himself to nominate a qualified person for the office.—Reg. XII., 1817, sec. xi.

187. In explanation of the preceding paragraph, it is hereby declared and enacted, that if any proprietor or farmer of land shall refuse or omit to furnish the statement required by paragraph 178, within the period therein prescribed, or at any subsequent period, when called upon to do so by the collector, or other officer exercising the powers of collector, it shall be competent to the collector, or other officer aforesaid, with the approval of the Board of Revenue, or other authority exercising the powers of that Board, to levy a daily fine upon such proprietor or farmer, until the statement required be furnished, to such amount as may appear proper, with reference to the circumstances of the case, and to the condition in life of the offender.—Reg. I., 1819, sec. vi.

188. Whenever a zemindar, or farmer engaging with Government for the public revenue, may wish to remove a putwarry from office, he is to state his reasons for so doing to the collector of the district, who, if they appear good and sufficient, will authorize the removal of the putwarry, but not otherwise.—Reg. XII., 1817, sec. xii.

189. Any zemindar, or other landholder or farmer of land, removing a putwarry from office

without the authority of the collector, obtained in the mode prescribed in the preceding paragraph, shall be punished by a fine not exceeding fifty rupees for the first offence, and one hundred rupees for the second offence; and if it should appear, on investigation by the collector, that the removal was unjust, and without sufficient cause, the said zemindar, or other landholder or farmer of land, shall be further subject to a daily fine, with the approbation of the Board of Revenue, but not otherwise, until the putwarry be restored.—Reg. XII., 1817, sec. xiii.

190 The penalties prescribed in the preceding paragraph, for the illegal removal of a putwarry from office, by a zemindar, or other proprietor or farmer of land, are hereby declared applicable to all persons whatsoever, who may, without due authority, remove from office any putwarry duly constituted or appointed; or who may oppose a putwarry so appointed or constituted, in the performance of his duties; or who may prevent his performing them, or who may resist or evade the entry of a putwarry, when duly appointed, into the possession of his office.—Reg. I., 1819, sec. vii.

191. Whenever the inferior putteedars or sharers, or the ryots or under-tenants of a village, may petition the collector for the removal of a putwarry, the collector shall direct such removal, and shall call upon the zemindar, or other landholder or farmer of land, engaging with Government for the public revenue, to appoint another putwarry, provided the reasons adduced for praying such removal appear to the collector good and sufficient, but not otherwise.—Reg. XII., 1817, sec. xiv.

192. Whenever a collector shall see ground to desire the removal of a putwarry for neglect of duty, or other sufficient cause, he is to state his reasons to the Board of Revenue, who will authorize the removal or not as may seem proper.—Reg. XII., 1817, sec. xv.

193. The duties of the putwarry shall be,

1st. To keep such registers and accounts relating to the village or villages to which he is appointed, in such manner and form as has heretofore been the custom, or in such other mode as may be hereafter prescribed by the Board of Revenue, together with such further registers and accounts as may be directed by those authorities respectively.

2nd. To prepare and deliver to the canoongoe of the pergunnah, at the expiration of every six months, a complete copy of the aforesaid accounts, showing distinctly the produce of the Khurreef and Rubbee harvests.

3rd. To perform all other duties and services which it has been customary for him to execute.—Reg. XII., 1817, sec. xvi.

194. The Board of Revenue will determine on the mode in which the accounts, rendered by the putwarry to the canoongoe, shall be brought forward by the latter, and recorded in the office of the collectors.—Reg. XII., 1817, sec. xvii.

195. The putwarry is to be paid hereafter in the same mode as he is now paid, whether in money, or in grain, or in land, or in any other legal manner whatsoever; but it shall be the duty of the several collectors to complete an account of the mode in which such payment is made, in the different pergunnahs, or other local division of their districts, and to submit the result of their researches to the Board of Revenue, or other authority exercising the powers of that Board; and it shall be competent to the Board of Revenue, or other authority aforesaid, with the sanction of the Governor-General in Council, to increase or reduce the amount of remuneration paid to the putwarries, and to alter or modify the mode of its payment, in any case in which sufficient cause for the adoption of such a measure shall exist.—Reg. XII., 1817, sec. xviii.

196. Where no putwarry has hitherto been appointed, the amount of the remuneration to the putwarry who may be appointed under this Regulation, and the mode of its payment, shall be regulated by the collector, with reference to the usage of the adjoining villages.—Reg. XII., 1817, sec. xix.

197. If the remuneration which a putwarry has heretofore regularly received, or which may be assigned to him by the collector, or other competent revenue authority, be denied to him by the parties who have hitherto paid it, or who may have been directed to pay it by the said authority, he is at liberty to complain against the person so withholding his dues to the collector, who will proceed to an immediate investigation of the facts, and decide according to the usage of the village; and the collector is hereby authorized to compel payment of the amount due to the putwarry, and to fine the offending party according to his situation and circumstances in life; provided always, that the fine in no instance exceed fifty rupees.—Reg. XII., 1817, sec. xx.

198. In all cases in which the decision of the collector is to be governed by usage, it shall be made an invariable rule to insert in the original proceedings on the case the attested report of the canoongoes of the pergunnah, as to the custom or usage in reference.—Reg. XII., 1817, sec. xxi.

199. Collectors of land revenue are hereby empowered to summon the putwarry of any village or villages within their respective districts, whenever there may be occasion for his attendance, on any matter connected with the duties of his office, and to require him to produce all accounts relating to the lands, produce, rents, collections, and charges of the village or villages, the accounts of which may be kept by him, and to examine him on oath or affirmation to the truth of such accounts, and on any other matters relating to such accounts, or regarding the lands, produce, rents, collections,

and charges of the village or villages to which the said putwarry may belong. When a collector shall require the attendance of a putwarry for the purpose above stated, he is to serve such putwarry with a written notice under his official seal and signature, stating the purpose for which his attendance is required, and the papers (if any) which he is to bring with him.—Reg. XII., 1817, sec. xxii.

200. If any putwarry shall neglect or omit to produce his original accounts on the requisition of a collector, or to give his evidence respecting them, the collector is hereby authorized and empowered to cause the said putwarry to be apprehended, and to order him to be confined in the Dewanny gaol of the district until he produce his accounts, or show sufficient cause for not producing them. In such cases, the putwarry shall be sent by the collector with a roobakaree to the judge of the city or zillah, stating the purport of the order passed against him; and the judge shall on those grounds commit the putwarry to gaol, and detain him until he produce the accounts, or until the collector applies for his release.—Reg. XII., 1817, sec. xxiii.

201. In like manner, putwarries shall produce all accounts relating to the lands, produce, collections, and charges of the village or villages, the accounts of which may be kept by them respectively, and furnish every information and explanation that may be required regarding them, whenever they may be required by any Court of Justice, in any suit that may be depending before the Court; and if any putwarry shall neglect or omit to attend with his accounts when required, for the adjustment of any matter or dispute depending in Court, the Courts are authorized to order such putwarry to be committed to close custody until he produce the accounts, or show sufficient cause for not having produced them.—Reg. XII., 1817, sec. xxiv.

202. In any case in which a collector of land revenue shall have occasion to depute an officer to examine the accounts of any village or villages, he is authorized to require the putwarries to attend such officer, and the collector is further empowered to grant to such officer a commission to administer oaths or affirmations to the several putwarries whose accounts are to be inspected, inserting in the commission the name of each putwarry to be put on his oath or affirmation, and if any such putwarry shall neglect or refuse to attend such officer with his accounts, or to give his evidence respecting them, when duly required to do so by a written notice from the collector, the collector is hereby authorized and empowered to proceed against such putwarry, in the same mode as if he had refused or neglected to attend, or to give his evidence before the collector himself.—Reg. XII., 1817, sec. xxv.

203. Any putwarry giving intentionally and deliberately a false deposition on oath or affirmation, when examined before a collector, or the officer of a collector duly empowered to take his examination relative to the lands, produce, collections, and charges of the village or villages to which he belongs, shall be held and considered guilty of perjury, and shall be liable, on conviction before a Sessions Court, to the penalties which are or may be prescribed for that offence in the Regulations; and any person causing or procuring a putwarry to commit the offence of perjury as above described is hereby declared guilty of subornation of perjury, and punishable under the provisions of the Regulations.—Reg. XII., 1817, sec. xxvi.

NOTE.—A further punishment for perjury was declared by cl. 1, sec. xiii., Reg. XVII., 1817 ("CRIMINAL JUDICATURE").

204. In like manner, any putwarry who shall alter, fabricate, falsify, or mutilate the accounts of the village to which he belongs, or shall furnish to the canoongoe or collector false, fabricated, or mutilated copies of those accounts, shall be held and considered guilty of forgery, and shall be liable, on conviction before a Sessions Court, to the penalties which are or may be prescribed for that offence in the Regulations; and any person who shall cause or procure any such forgery shall be liable to the same penalties as those convicted of having actually committed the offence.—Reg. XII., 1817, sec. xxvii.

205. The several rules in the existing Regulations, by which proprietors and farmers of lands sold, or ordered to be sold or divided, or under attachment, are required to attend or cause their officers to attend the collectors, or officers deputed by a collector, with the accounts relating to such lands, and by which such landholders and farmers, and their agents, are declared responsible for the fidelity and accuracy of such accounts, are to be held and considered in full force, unless where they may be distinctly rescinded, altered, or modified by this Regulation.—Reg. XII., 1817, sec. xxviii.

206. In like manner, whenever an estate, or the portion of an estate, may be directed to be disposed of at public sale, or may be transferred by the private act of the proprietor or proprietors, or when an estate may be divided pursuant to a decree of a Court of Judicature, or at the request of one or more of the proprietors, or when an estate or portion of an estate may be under attachment, the collector shall be authorized to require the attendance of all descriptions of native agents employed by the proprietors or farmers of such estates or farms, in the management of their lands, or keeping the accounts relating to them, and to examine or to cause them to be examined on oath or affirmation, touching such accounts, in the same manner as he is authorized by paragraphs 199 and 202, to require the attendance and to take or cause to be taken the examination of putwarries; and if such agents shall refuse or neglect to attend the collector or his officer, when their attendance may be duly required, or to give their evidence, the collector is authorized and empowered to proceed

against them in the same manner as is prescribed in the case of putwarries refusing or neglecting to attend.—Reg. XII., 1817, sec. xxix.

207. Provided further, that the rules contained in paragraphs 203 and 204 shall be held and considered applicable to all such native agents employed by proprietors or farmers of land, in the management of their estates or farms, or in keeping the accounts relating to them.—Reg. XII., 1817, sec. xxx.

208. Whenever a collector of land revenue, or other officer vested with the powers of a collector, may in any case connected with his public duty, but not provided for in this or any other Regulation in force, have occasion to require the attendance of a zemindar, or other proprietor or farmer of lands, or of the gomashtah, or other officer or agent of such proprietor or farmer, with the accounts of such lands, he shall report the circumstance to the Boards of Revenue. The Boards are hereby empowered to grant authority to the collector or other officer aforesaid, to require the attendance of the proprietor or farmer, or of the gomashtah or other officer or agent, with all accounts relating to the lands in their possession or management.—Reg. XII., 1817, sec. xxxi.

209. A written notice shall in such cases be issued by the collector or other officer to the party whose attendance is required, stating the purpose for which he is summoned, and the papers (if any) which he is to bring with him; and if the proprietor or farmer shall omit or refuse to attend, or cause his officer or agent to attend by the time prescribed in the collector's requisition, with the accounts and information required, the Board of Revenue are authorized and empowered to impose upon him such daily fine, to be payable daily until he complies with the collector's requisition, as they may think adequate to his situation and circumstances in life; reporting, however, the amount for the information of the Governor-General in Council. The fine, when confirmed by Government, is to be levied by the same process as is prescribed for the recovery of arrears of revenue.—Reg. XII., 1817, sec. xxxii.

NOTE.—The greater part of this rule is superseded, so far as it relates to the Lower Provinces of Bengal, by Act XX., 1848. See post, paragraph 222.

210. In cases in which, from local or other sufficient causes, it may appear impracticable or inexpedient to cause the appointment in any estate or farm of putwarries, in the mode herein prescribed, as, for instance, in certain estates consisting chiefly of hills and forests in the south-western frontier, and in very small mehauls, the accounts of which are kept by the proprietors themselves, it shall be competent to the Board of Revenue to suspend its operation in such estates or farms; provided, however, that in all such cases the person by whom the village accounts are kept, whether proprietor or farmer, or gomashtah or other officer, shall furnish the canoongoe of the pergunnah with such accounts and statements as the collector, with the approval of the Board, may direct, and shall be subject to the provisions contained in paragraphs 199 to 204, and the proprietors or others by whom they may be employed shall likewise be subject to the provisions contained in paragraphs 203 and 204.—Reg. XII., 1817, sec. xxxiii.

211. No Court of Judicature shall take cognizance of the complaint of a putwarry against the landholder, or the tenants of a village, for refusing to remunerate his labours, nor shall any Court of Judicature take cognizance of any complaint against a collector, for or on account of any decision passed by him in virtue of the powers with which he is vested by this Regulation.—Reg. XII., 1817, sec. xxxiv.

212. It shall be the duty of the collectors to furnish the Board of Revenue with a periodical report of all judgments passed by them under paragraph 197, and such judgments shall be liable to reversal or alteration by the Board, at any time within six months after passing the same, but not later.—Reg. XII., 1817, sec. xxxv.

213. All sums adjudged by the collector in favour of a putwarry, under paragraph 197, and all fines directed to be levied by these rules, shall be recoverable by the same processes as arrears of the public revenue, and all such fines, when recovered, shall be carried to the account of Government. —Reg. XII., 1817, sec. xxxvi.

214. Provided further, that it shall be competent to the Governor-General in Council to suspend the operation of the rules contained in this or any former Regulation, regarding putwarries, within any mehauls in which the establishment of such officers, as prescribed in those rules, may appear to be inexpedient.—Reg. I., 1819, sec. iv., cl. 4.

215. Provided also, that it shall be competent to the Board of Revenue to suspend by proclamation the operation of the preceding rules, in the districts of Chittagong and Sylhet, and in any other parts of the country in which individual estates may generally be of inconsiderable extent, until they shall have determined, under the discretion vested in them by paragraphs 177, 195, and 210, the number of putwarries to be appointed or retained, the mode in which they are to be remunerated, and the mehauls to be permanently exempted from its general operation.—Reg. I., 1819, sec. iv., cl. 6.

VILLAGE ACCOUNTS.

216. The village accounts, which are required to be kept in such manner and form as has heretofore been the custom, or in such other mode as may hereafter be prescribed by the Boards of Revenue, shall be prepared in duplicate sets; one for deposit in the office of putwarry, and one for deposit in the office of collector of the district in which the respective estates or tenures may be situated; and wherever the office of a canoongoe may be established, a third copy shall be prepared and deposited in that office.—Reg. IX., 1833, sec. xii.

217. The several accounts required for deposit in the pergunnah and zillah revenue offices, as above stated, instead of being delivered at the expiration of every six months, as prescribed by the rules at present in force, shall be furnished in such mode and at such periods as the Boards may direct. They shall be open to the inspection of every person concerned, desirous of examining them. —Reg. IX., 1833, sec. xiii.

218. Any zemindar, farmer, or other description of landholder who may refuse or neglect to conform to the above rule, shall be deemed incompetent to oust any ryot or other tenant from the land occupied by him for non-performance of the conditions of his tenure or lease, or on any other pretext, or to distrain the property of any ryot or tenant, or sue him in any Court of Justice for an arrear of rent, or the breach of any agreement that may have been contracted by him.—Reg. IX., 1833, sec. xiv.

219. Any such suit instituted in a Court of Justice by a zemindar, farmer, or other landholder who has not conformed to the above rule, shall be nonsuited with costs; and should he proceed to oust a ryot or other tenant from the land occupied by him, or distrain his property, he shall be liable to damages on account of such illegal acts, to such amount as the Court awarding the restitution of such land or property may deem adequate.—Reg. IX., 1833, sec. xv.

## ATTENDANCE OF PROPRIETORS AND FARMERS BEFORE THE REVENUE AUTHORITIES.

NOTE.—The following rules are in addition to those which will be found in paragraphs 86 and 162, "REALIZATION OF REVENUE," and to paragraphs 32 and 205, 208, and 209, of the present collection.

220. The collectors are generally empowered to require the personal attendance of any landholder, or other native inhabitant, within their respective jurisdictions, when the attendance of such persons may be indispensably necessary for the purpose of any authorized public inquiry, or to enable them to perform any part of their public duty, under the regulations or instructions of the Governor-General in Council or Board of Revenue. But a collector shall not cause the personal attendance of any landholder or other person, who may appoint an agent duly authorized to attend for him, if the attendance of the agent so appointed shall be adequate to the purposes required. Where a collector may have occasion to exercise the powers as above authorized, he shall issue a regular summons under his official seal and signature, specifying the name, designation, and residence of the party summoned, and the purpose or purposes for which his attendance is required. Any infringement of this rule shall render the collector liable to an action for damages in the Civil Court.—Reg. I., 1801, part of sec. x.; Reg. XXVII., 1803, sec. li.

221. By the preceding rule the collectors are empowered, in certain cases, to require the personal attendance of any landholder, or other native inhabitant, within their respective jurisdictions But no penalty has been prescribed by the Regulations for refusing to obey, or resisting, or avoiding compliance with, the requisition of any process issued under that rule. It is therefore hereby declared, that any person, being a landholder or farmer of land, so offending, will be liable to the penalties prescribed by Sections XXIII., XXII., XXIV., XXV., XXVI., and XXVII., Regulation XXVII., 1803 ("REALIZATION OF REVENUE"), under the provisions therein specified. If the offender shall not be a landholder or farmer of land, he will be liable to the penalty prescribed in Section XXVIII. of the said Regulation. The provision contained in this paragraph shall be in force in the ceded and conquered provinces.—Reg. VIII., 1805, sec. xviii., cl. 2.

222. If any proprietor or farmer of land shall omit or refuse to attend, or to cause his officer or agent to attend, when duly summoned by the collector, in any case specified in any of the said Regulations, by the time prescribed in the notice issued by the collector, or shall omit or refuse to furnish the accounts or documents required, and shall not show sufficient cause for such omission, the collector may impose of his own authority such daily fine, to be payable daily until compliance with the requisition, as he may think adequate to the situation and circumstances in life of the defaulter, not exceeding in any case the daily fine of fifty rupees; and the amount of such fine, accruing due from time to time, may be levied without further confirmation, by the same process as is prescribed for the recovery of arrears of revenue.—Act XX., 1848, sec. i.

223. The collector shall forthwith report the imposition of every such fine, and the amount thereof, and also from time to time the amount levied, to the commissioner of revenue, who shall report the same for the information of the local Government.—Act XX., 1848, sec. ii.

224. Every order passed by a collector under this Act shall be appealable in the usual manner to the commissioner of revenue and other superior authority, but no such appeal shall avail to prevent the levy of any fine so imposed pending the appeal.—Act XX., 1848, sec. iii.

225. Whenever the amount levied under any such order, issued for any default by authority of a collector under this Act, shall have exceeded five hundred rupees, the collector shall report the case specially to the commissioner of revenue, and no further levy for such default shall be made otherwise than by authority of the commissioner of revenue.—Act XX., 1848, sec. iv.

226. Nothing in this Act contained shall be deemed to repeal the power of imposing daily fines, and of levying the fines so imposed in the manner prescribed by the said several Regulations.—Act XX., 1848, sec. v.

227. The word "collector," used in this Act, shall be taken to mean any person lawfully exercising the powers of a collector.—Act XX., 1848, sec. vi.

228. This Act shall not extend to the North-Western Provinces of the presidency of Bengal.—Act XX., 1848, sec. vii.

# LAND REVENUE OF CALCUTTA.

## Act XXIII., 1850.

1. All assessable lands, not the property of the East-India Company, within the town of Calcutta, of which the rate of assessment is not known, or which have not heretofore been assessed, shall be assessed at the rate of three annahs for each cottah.—Act XXIII., 1850, sec. i.

2. Lakhiraj tenures of land in Calcutta, of which uninterrupted possession has been held exempt from assessment for sixty years, shall be valid: no other lakhiraj tenures of land in Calcutta shall be deemed valid, unless the same are or shall be held under an unexpired grant from the British Government.—Act XXIII., 1850, sec. ii.

3. If any owner of land within Calcutta, or any person holding land within Calcutta on lease from the East-India Company, shall, upon the written demand of the collector, refuse or neglect to pay any sum at which the land is assessed, or for which he is liable under his lease, the collector may levy the same by distress and sale of the goods and chattels, wherever found, of such owner or lessee, or, after written demand upon the tenant or occupier, and his refusal or neglect to pay the sum lawfully demanded, by distress and sale of any goods and chattels found upon the land, in the manner appointed for regulating distress for small rents in Calcutta by Act VII., 1847: and, for the purpose of any such distress and sale, the collector shall have all the powers of a commissioner of the Court for Recovery of Small Debts referred to in the said Act, and the collector shall have power to appoint any of his officers to perform the duties of bailiffs and appraisers, and of the chief clerk of the said court, as provided by the said Act, and all the provisions of the said Act relating to the said Commissioners and their court shall be deemed to apply to the said collector and his office in the execution of this Act.—Act XXIII., 1850, sec. iii.

4. In the case of payment by any tenant or occupier, not holding immediately under the East-India Company, or the seizure and sale of his property, he may deduct the amount of the payment or levy from the next payment of rent to his landlord.—Act XXIII., 1850, sec. iv.

5. The claim of the East-India Company for land revenue or rent has priority over all other claims upon the land, or to which property distrained upon the land may be liable.—Act XXIII., 1850, sec. v.

6. If the collector's claim for arrears of rent is disputed, the process of distraint and sale shall not be stayed unless the amount claimed be lodged with the collector.—Act XXIII., 1850, sec. vi.

7. Arrears of rent or revenue which shall become due to the East-India Company within the town of Calcutta, after the passing of this Act, shall be recoverable at any time within six years next after the same are due, or next after an acknowledgment of the same in writing has been given by the person by whom the same is payable, or his agent, and not afterwards.—Act XXIII., 1850, sec. vii.

8. When a claim to hold land lakhiraj, or free of assessment, shall be set up under this Act, the collector shall inquire into the claim, taking such evidence as the claimant may offer, or the public records supply, and shall report his proceedings and decision in the case for the consideration of the revenue commissioner. If the commissioner is satisfied of the validity of the claim, he shall make an order accordingly, and such order shall be final. If he is not satisfied of the validity of the claim, he shall direct the collector to assess the land, leaving the claimant to contest the collector's demand in the civil courts as herein provided.—Act XXIII., 1850, sec. viii.

9. Any person obstructing or molesting the collector, or any of his subordinate officers, in the execution of their duty, shall, on conviction before a magistrate of the town of Calcutta, be liable to a fine not exceeding five hundred rupees, and in default of payment, to imprisonment in the common gaol for a term not exceeding six months, or until the fine is sooner paid.—Act XXIII., 1850, sec. ix.

10. The collector may punish any contempt committed in his presence, in open cutcherry or office, by fine, not exceeding two hundred rupees, and in default of payment, by imprisonment in the common gaol for a term not exceeding one month; from every such order, or fine or imprisonment, an appeal shall lie to the commissioner, whose decision shall be final.—Act XXIII., 1850, sec. x.

11. The collector shall act in the execution of this Act under the usual control of the superior revenue authorities.—Act XXIII., 1850, sec. xi.

12. The ground-rents payable to the East-India Company from lands in Calcutta are revenue within the meaning of the Act of Parliament 21 Geo. III., c. 70, and the Supreme Court of Judicature established by royal charter at Fort William in Bengal has not any civil jurisdiction concerning the said ground-rents, or concerning any thing ordered or done in the assessment or collection thereof.—Act XXIII., 1850, sec. xii.

13. All actions concerning any trespass or injury committed by any revenue officer acting under colour of this Act, or concerning any claim in respect of any goods taken by or any moneys paid to any revenue officer under this Act, or concerning any claim of rent or revenue on the part of the East-India Company under this Act, shall be tried and determined in the civil courts established by the East-India Company at the sudder station of the Twenty-four Pergunnahs; notwithstanding that the cause of action, in respect of which such action is brought, arose, or the defendant therein reside, within the limits of the town of Calcutta; and every such action shall be brought within six months after the cause of action arose, and not afterwards.—Act XXIII., 1850, sec. xiii.

14. The words "collector" and "commissioner" used in this Act shall be taken to mean any person lawfully appointed to exercise the powers of collector and commissioner respectively.—Act XXIII., 1850, sec. xiv.

# PREFATORY NOTE

## SECTION "MISCELLANEOUS REVENUE."

WHEN the present work was commenced, the necessity of arranging the minor heads as a separate Section of the Revenue Collection was not so apparent as it became after further progress had been made. In the meanwhile, with the view of saving time, the Abkary and Sayer portion had been printed while other matter was preparing, and had been paged at the foot; and so in succession were all the other heads as they were severally printed. The arrangement of all the heads in one collection being now adopted, a continuous paging has been added at the top, commencing with the second head in sequence of the bottom paging of the first, which occupies 34 pages.

The annexed Table will, it is hoped, remove all difficulties in the use of the Section itself, and supply the absence of a general heading on the left page, as given in all the other Sections; the general paging will render it perfectly available for reference from the Index and the General Table of Enactments.

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# ABKARY.*

## SUPERINTENDENCE OF THE ABKARY DEPARTMENT.

1. The collectors of the land revenue shall, in ordinary cases, be entrusted with the management of the abkary revenue, and shall be entitled to a commission of five per cent. on the net amount realized by them. The Governor-General in Council, however, reserves to himself the power of nominating any other public officer, or deputing specially any other covenanted servant of the Honourable Company, to take charge of the abkary collections in any district in which that measure may appear to him to be necessary; and officers who may be so nominated or deputed shall be entitled to exercise all the powers, and to enjoy the emoluments granted to collectors of the land revenue by this Regulation.—Reg. X., 1813, sec. xxxi.

2. Whenever a commissioner or commissioners shall be appointed by the Governor of Bengal, or by the Governor or Lieutenant-Governor of the North-Western Provinces, with the sanction of the Government of India, for the superintendence of the abkary revenue, such commissioner or commissioners shall exercise, within such districts as may be assigned and prescribed from time to time by the said Governors or Lieutenant-Governor, the powers, authority, and jurisdiction vested by the Regulations and Acts of the Government in commissioners of the land revenue in all matters appertaining to the abkary revenue.—Act XXV., 1840, sec. i.

3. Within the districts so assigned to such commissioner or commissioners, the Governor of Bengal, or Governor or Lieutenant-Governor of the North-Western Provinces may appoint any duly-qualified persons, not being of the description specially provided for in paragraph 1, to be superintendents of the abkary revenue, and to vest them with the charge and management of the abkary revenue under the orders of the said commissioner, within such local limits as to him may seem fit, and the persons so appointed shall exercise all the powers of collectors in regard to this revenue, excepting the adjudication of cases of contravention of the laws relating to abkary.—Act XXV., 1840, sec. ii.

4. It shall be competent for the Governor of Bengal to vest any person appointed under the foregoing paragraph to the charge and superintendence of the abkary revenue, with the power of adjudicating cases of contravention of the abkary laws, in addition to the powers attaching to the office of superintendent of abkary revenue in the district or districts assigned to him: Provided, that no such superintendent, when so vested with the powers of adjudication, shall sentence any person to a fine exceeding two hundred rupees, whether commutable or otherwise, or to imprisonment for a term exceeding three months, except for a second offence under paragraph 139.—Act XXV., 1840, sec. iii.

## ESTABLISHMENT OF DISTILLERIES.

5. Persons not being British-born subjects shall not construct or work a distillery, of whatever description, within the said territories, without a license from the collector of the district, or other officer in charge of the abkary mehal.—Reg. VII., 1824, sec. ii., cl. 2.

6. In like manner, persons being British-born subjects shall not construct or work a distillery of any description, at a distance exceeding ten miles from the town of Calcutta, without a license from the collector of the district, or other officer in charge of the abkary mehal, or specially appointed by Government to collect the duties chargeable on spirits manufactured by the said persons.—Reg. VII., 1824, sec. ii., cl. 3.

## DISTILLERIES UPON THE EUROPEAN PLAN.

7. No person shall construct or work a distillery or distilleries after the manner in which distilleries are constructed and worked in England, at any place of which the distance from Calcutta may not exceed ten miles, without a license under the signature of three of the justices of the peace for the time being, acting in and for the Twenty-four Pergunnahs and the districts adjacent to Calcutta, upon pain of forfeiting all the spirits manufactured at such distillery or distilleries, together with all the stills, vessels, and other moveables appertaining to such distillery or distilleries, and also the sum of two rupees for each and every gallon, each and every still in such distillery or distilleries is calculated to contain, for each and every day on which he shall work each and every such still and stills in the said distillery or distilleries without such license. Any person wishing to construct or work a distillery of the above description is accordingly to make the

* In accordance with the rules of paras. 101 to 104, the words "or other officer in charge of the abkary mehal," have been inserted after the word Collector.

necessary application for a license for that purpose to one of the said justices of the peace for the time being, acting in and for the Twenty-four Pergunnahs and the districts adjacent to Calcutta.—Reg. II., 1802, sec. ii., and Reg. VII., 1824, sec. ii., cl. 3.

8. It shall at all times be competent to the Governor-General in Council, by an order in council, to invest such person or persons as may be judged proper with the powers and authority which, under this Regulation, belong to the justices of the peace acting in and for the Twenty-four Pergunnahs and the districts adjacent to Calcutta.—Reg. VII., 1824, sec. ii. cl. 4.

9. All persons not being British-born subjects who may construct or work distilleries as aforesaid at any place whatsoever, within the provinces subordinate to this presidency, as well as all British-born subjects who may construct or work such distilleries at any place of which the distance from the town of Calcutta may exceed ten miles, shall pay the still-head duty to the collector, or officer in charge of the abkary mehal, or such other officer as the Board of Revenue may direct to adjust or receive the same; and the powers vested in the justices of the peace, acting in and for the districts aforesaid, in regard to distilleries constructed or worked as aforesaid beyond the limits aforesaid, are hereby vested in the collectors, and other officers in charge of the abkary mehal, for their respective districts.—Reg. VII., 1824, sec. ii., cl. 5.

10. Provided, however, that when from local circumstances or other sufficient cause it shall appear to be expedient to suspend the operation of any part of the rules contained in paras. 11, 12, 13, 14, 15, 17, 18, 19, 20, 21, with a view to the relief of the distillers from unnecessary interference, it shall be competent to the Governor-General in Council, by an Order in Council, to direct the said rules, or any part of them, to be suspended for such period as may, from time to time, appear proper, and in lieu thereof to prescribe such other rules relative to the payment of the duty chargeable to the passing and storing of the spirits manufactured, and of the stills, coppers, casks, and other utensils employed in the distillery, to the inspection and examination of the distillery, and the warehouses, godowns, or other places, used for manufacturing or storing the spirits, and to the furnishing of periodical statements and lists of the spirits and utensils aforesaid, as may from time to time be judged expedient; and for any breach of the rules so prescribed, the party offending shall, in addition to all other forfeitures that may attach to the act, forfeit to Government a sum equal to the penalty prescribed for a violation of the rule contained in the following paragraph.—Reg. VII., 1824, sec. ii., cl. 6.

11. On receipt of a license for establishing a distillery, the proprietor shall, within ten days, make a regular entry of every warehouse, godown, and other place used for carrying on the business of the distillery, or for depositing the said spirits in when manufactured, in a book to be kept for that purpose by the aforesaid justices of the peace acting in and for the Twenty-four Pergunnahs and the districts adjacent to Calcutta, or by the officers appointed by the said justices of the peace, in the manner hereinafter mentioned, attending upon and at such distillery, upon pain of forfeiting rupees one thousand for not doing so.—Reg. II., 1802, sec. iv.

12. Every distiller, five days before he begins to bring in materials for manufacturing spirits, shall make entry of all stills, coppers, tuns, butts, coolers, casks, and vessels, which he shall use in each and every distillery, with and in a book to be kept by the gauger appointed, in the manner hereinafter mentioned, by the said justices of the peace for the time being acting in and for the Twenty-four Pergunnahs and the districts adjacent to Calcutta, to attend at and upon such distillery and distilleries; and the same shall be duly marked by the surveyor, or in his absence by his deputy, or the gauger to be appointed as hereinafter mentioned; and all and every person and persons offending against this provision shall for each offence forfeit rupees five hundred, together with all stills, coppers, tuns, butts, coolers, casks, and other vessels, which he shall use without being so entered and marked, and the liquors contained therein.—Reg. II., 1802, sec. v.

13. The justices of the peace for the time being, acting in and for the Twenty-four Pergunnahs and the districts adjacent to Calcutta, and the surveyor and the subordinate officers, by the said justices appointed as hereinafter mentioned, shall be at all times, by day or by night, permitted to have free ingress into all and every distillery and distilleries, and into the godowns and other places appertaining thereto; and to make such experiments as may be necessary for estimating the amount of the duties, and to inspect and measure all stills and vessels used in manufacturing the spirits, and likewise to take gauges, and to prove all spirits so manufactured; and all and every person and persons who shall hinder or obstruct him, them, or any of them, therein, shall each and every of them forfeit the sum of rupees one thousand for every such offence.—Reg. II., 1802, sec. vi.

14. Every wash-still shall contain at least two hundred gallons, and every still for distilling low wines shall contain at least one hundred gallons; and all and every person or persons who shall act contrary to this provision, and use or work any still of less dimensions than herein mentioned, shall forfeit rupees one thousand for every such offence.—Reg. II., 1802, sec. vii.

15. The surveyor and deputy surveyor shall, previously to entering on the duties of his office, respectively take the following oath before one of the aforesaid justices of the peace:

"I, A. B., appointed surveyor (or deputy surveyor) of the European distilleries, do hereby swear, that I will, without fear or affection, render true and faithful accounts of all surveys, gauges, and calculations of duties made by me for levying the duties on the produce of the said distilleries; and that I will not be concerned on my own account, either directly or indirectly, in the manufacture or sale of spirits, made at any distillery of that description, and that I will not take any fee or reward from any person, except such salary or commission as may be allowed me: So help me God."—Reg. II., 1802, sec. viii.

16. The rate of duty on spirits, which shall and may be manufactured at the distilleries worked according to the European process, shall be levied on the produce of each still, at the rate of six anas per gallon London proof, to be augmented or reduced in proportion to the strength of the liquor.—Reg. II., 1802, sec. ix.

17. The duty and duties payable under the preceding rule on spirits, shall be discharged monthly, or oftener, should the justices of the peace acting in and for the Twenty-four Pergunnahs and the districts adjacent to Calcutta, or any three or more of them, think proper so to direct, and paid to them, or to such person or persons as shall be appointed for that purpose, under their respective hands and seals; and all stills, coppers, and other utensils used in each and every distillery, shall be considered to be mortgaged as security for, and liable to all the duties payable by the distiller or distillers, and in arrear and owing from time to time from or by such distiller or distillers; and also to all penalties, fines, and forfeitures, imposed by this Regulation, and be liable to be sold for the recovery of such arrears of tax or duties which may be due from the said distiller or distillers, and for the recovery of such fines, penalties, and forfeitures.—Reg. II., 1802, sec. x.

18. In order to adjust the duty payable on the spirits, every distiller, five days before he begins to bring in materials for making wash, shall, upon pain of forfeiting the sum of rupees one thousand, give notice to the justices of the peace acting in and for the Twenty-four Pergunnahs and the districts adjacent to Calcutta, or to one or more of them, or to such person or persons as any three or more of the said justices may for that purpose appoint, under their respective hands and seals, of the day on which he intends to commence distilling, and such notice shall be considered to be in force for a period not less than two months. Every wash-still, after the working shall have commenced, shall be presumed to be kept regularly in work for two months from the day appointed by the said notice for commencing distilling; and no person or persons who shall have begun to work any wash-still shall withdraw the entry thereof until the expiration of the said two months, unless he or they shall make it appear that some accident has happened sufficient to justify his or their so doing, in the opinion of the said justices of the peace acting in and for the Twenty-four Pergunnahs and districts adjacent to Calcutta.—Reg. II., 1802, sec. xi.

19. Every distiller, when he may be inclined to discontinue working his stills, shall, upon pain of forfeiting rupees one thousand for not doing so, give notice to the justices of the peace acting in and for the Twenty-four Pergunnahs, or to one or more of them, or to such person as they may direct, four days previous to the distilling being discontinued. At the expiration of that period the still shall be sealed up by the surveyor or deputy surveyor, or by any of the officers or persons by the said justices appointed as hereinafter mentioned; and the seal shall, on no account, be destroyed or broken or removed, except in presence of the surveyor or his deputy, or of such persons as shall be by any one or more of the said justices for that purpose authorized, on due notice given by the proprietor or proprietors of the time when he or they intend again to work the still or stills, in the manner directed in the preceding rule, upon pain of forfeiting the sum of rupees one thousand.—Reg. II., 1802, sec. xii.

20. An officer appointed as hereinafter mentioned by the justices of the peace acting in and for the Twenty-four Pergunnahs, or by three or more of them, shall take and keep a regular account of all spirits conveyed from each and every distillery to the godowns, warehouses, and other places where such spirits are usually kept, exhibiting the quantity and strength of such spirits, and he shall transmit a regular account thereof weekly to the said justices; and all and every person and persons who shall hinder or obstruct the said officer in taking or attempting to take the said account, shall forfeit the sum of one thousand rupees for every such offence.—Reg. II., 1802, sec. xiii.

21. No spirits shall be conveyed from the godown, warehouse, or other place appropriated for keeping the produce of the distillery or distilleries, or from the said distillery or distilleries, unless to such godown, warehouse, or place appropriated for keeping the produce of such distillery or distilleries, and entered as aforesaid, without a pass from and under the hand and seal of one or more of the said justices, on pain of the spirits so taken away being forfeited, together with the casks, boats, horses, and other cattle employed in the transportation of it; which rule is to be considered applicable, and shall be applicable to the spirits which may have been already manufactured and may be in store on the passing of this Regulation; and the said spirits, so forfeited, may be seized by any officer appointed as hereinafter mentioned.—Reg. II., 1802, sec. xiv.

22. Any person opposing the surveyor or other officer in the execution of the duty com-

mitted to such officer under this Regulation, or otherwise infringing any of the rules contained in this Regulation, shall, in addition to all other forfeitures, on proof thereof made to the satisfaction of two or more of the said justices of the peace acting in and for the Twenty-four Pergunnahs, forfeit his license for working any distillery or distilleries.—Reg. II., 1802, sec. xv.

23. Persons exporting spirits made at distilleries constructed and worked after the manner in which distilleries are constructed and worked in England, shall be entitled to a drawback of a moiety of the duty paid by them at the place of manufacture, that is to say, three anas per gallon, on producing a certificate from the commander of the vessel that the spirits have been actually shipped for that purpose. The drawback payable on the exportation of all such spirits shall be paid by the collector of customs, and the accounts thereof shall be adjusted in such manner as the Governor-General in Council may direct.—Reg. II., 1802, sec. xvi., and Reg. VII., 1824, sec. iii., cl. 1.

24. Spirits manufactured within any of the foreign settlements on the river Hooghly shall not be carried out of the limits of such settlements until a duty equal to the still-head duty chargeable on spirits manufactured as aforesaid shall have been paid to the collector at Hooghly, or such other officer as the Governor-General in Council may appoint, and a pass for the same obtained from such officer.—Reg. VII., 1824, sec. iii., cl. 2.

25. An officer, appointed as hereinafter mentioned, shall attend at the custom-house on the part of the said justices, to gauge and prove the spirits which may be entered at the custom-house for exportation; and if the strength of such spirits shall be above or under London proof, the rate of drawback shall be augmented or reduced in proportion to the quality of the liquor. Such drawback is to be paid in conformity to a certificate to be furnished by the officer employed in the execution of the above duty, countersigned by one of the said justices of the peace.—Reg. II., 1802, sec. xvii.

26. No spirits shall be deemed to be intended for exportation unless the quantity shall be one thousand gallons or upwards.—Reg. II., 1802, sec. xviii.

27. Spirits intended for exportation shall not be shipped, nor shall any drawback be paid on account of such spirits, until the vessel shall have taken on board her pilot; nor shall any spirits be shipped from any other place except the custom-house. Nothing contained in this Regulation shall be construed to preclude the custom-master from levying the commission on the exportation of spirits, to which he and his assistant are or may be entitled by any Regulation for the collection of Government customs.—Reg. II., 1802, sec. xix.

28. Any spirits which shall be shipped for exportation, and shall afterwards be relanded without a special license, under the hand and seal of one or more of the said justices of the peace, shall be forfeited, together with the casks and vessels in which such spirits shall be contained, and the carts, boats, horses, bullocks, and other cattle employed in transporting the same.—Reg. II., 1802, sec. xx.

29. Whenever any spirits or other articles or things shall be forfeited, under any of the rules or provisions of this Regulation, the produce thereof, when sold as hereinafter mentioned, shall, after deducting the expenses attending the same, and the drawback (in cases where a drawback has been paid, which drawback shall be repaid to the custom-master on account of Government), be divided as follows:

| | |
|---|---|
| To the informer | Two-fifths. |
| To the officer making the seizure | One-fifth. |
| To the surveyor | One-fifth. |
| To his deputy | One-fifth. |

—Reg. II., 1802, sec. xxi.

30. The justices of the peace for the time being acting in and for the Twenty-four Pergunnahs and the districts adjacent to Calcutta, or any three or more of them, are hereby authorized to constitute and appoint a surveyor, and a deputy surveyor, and proper gaugers and other officers, under their hands and seals, for the purpose of carrying the several rules and provisions made in and by this Regulation into full force and effect.—Reg. II., 1802, sec. xxviii.

31. If any officer appointed as hereinbefore mentioned have cause to suspect that any spirits manufactured at any distillery or distilleries constructed and worked according to the European manner, or any still or stills, copper or coppers, tun or tuns, butt or butts, cooler or coolers, cask or casks, or other vessel or vessels, implement or implements, used or to be used in such distillery or distilleries as aforesaid, worked or to be worked according to the European manner, is or are fraudulently concealed in any place or places, that then, upon oath made by such officer before one or more of the said justices of the peace for the time being acting in and for the Twenty-four Pergunnahs, or acting in and for the zillah wherein such stills, coppers, tuns, butts, coolers, casks, or vessels, or any of them, are so suspected to be concealed, setting forth the grounds of his suspicion, it shall be lawful for such justice or justices, if he or they judge it reasonable, by special warrant under his or their hand and seal, to authorize such officer, by day or by night, to enter into such place or places, and to seize and carry away all and every such spirits, stills, coppers, tuns, butts,

coolers, casks, vessels, or other implements so fraudulently concealed, and if any person or persons hinder or obstruct the said officer therein, he and they shall each and every of them, for every such offence, forfeit the sum of one thousand rupees —Reg II, 1802, sec xxix

32 Whenever any spirits, stills, vessels, or other of the materials or things hereinbefore mentioned, shall be seized as forfeited by any person authorized as aforesaid, all such seizures shall, in a summary way, be heard and determined by one or more of the justices of the peace, or magistrates for the time being, acting in and for the zillah in which the same shall be seized as forfeited, which justices of the peace or magistrates, respectively, shall cause the persons in whose custody such spirits, stills, vessels, or other materials or things were found, to be summoned to appear before them, and upon their appearance or default, to examine into the cause of the seizure thereof, and give judgment, and upon condemnation thereof to issue out their warrants for sale thereof, and such judgments shall be final —Reg II, 1802, sec xxx

33 Whenever any such spirits, stills, vessels, or other materials or things hereinbefore mentioned, shall be seized as forfeited, and no person within twenty days after shall appear to the person or persons who made such seizure to claim the same, then the said person or persons who seized the same may and shall, after the expiration of the said twenty days, cause notice to be given in the Calcutta Gazette, or at the cutcherry of the magistrate of the zillah in which the same shall be seized as forfeited, signifying the place where, and the day and time of the day that the said justices of the peace or magistrates, respectively, in the last paragraph mentioned, will proceed to hear the matter of such seizure and to the condemnation thereof In which case the said justices of the peace or magistrates, respectively, are to proceed to examine into the cause of such seizure, and to give judgment for the condemnation of such of the said spirits, stills, vessels, or other materials or things, as upon such examination shall appear to them to be forfeited, and upon condemnation thereof to issue their respective warrant or warrants, under their hands and seals, for the sale thereof, and the said judgment shall be final, and as if the owners, or persons to whom the same belonged, or in whose custody the same was or were, had been summoned to attend the said justices or magistrates, respectively —Reg II, 1802, sec xxxi

34 Every person who shall neglect to pay the duties in and by this Regulation set and imposed, at the respective time and times appointed and to be appointed, as hereinbefore mentioned, shall forfeit for each and every rupee of the said duty or duties the sum of one rupee and one ana The said forfeitures to be levied upon their goods and chattels, or otherwise recovered, as hereafter in this Regulation directed —Reg II, 1802, sec xxxii

35 All pecuniary fines, penalties, and forfeitures created or imposed by this Regulation, shall be heard, adjudged, and determined by one or more of the justices of the peace or magistrates for the time being, acting in and for the zillah in which such fines, penalties, or forfeitures shall be respectively made, incurred, or committed, whose judgment therein shall be final, and the said justices of the peace and magistrates, respectively, are hereby authorized and required, upon any complaint or information exhibited and brought before them of any such forfeiture, fines, or penalties made, incurred, or committed, contrary to this Regulation, to summon the party or parties accused, and upon his or their appearance or contempt to proceed to the examination of the matter of fact, and upon due proof made thereof, either by the voluntary confession of the party or parties, or by the oath or affirmation of one or more credible witnesses (which oath or affirmation they, or any one or more of them, have hereby power to administer), to give judgment or sentence accordingly, as in and by this Regulation is directed, and to award and issue out warrants, under their respective hands and seals, for the levying of such forfeitures, penalties, or fines by this Regulation imposed, together with the costs and charges upon the goods and chattels of the offender and offenders, and to cause sale to be made thereof if they shall not be redeemed within fourteen days, rendering to the party or parties whose goods and chattels they were the overplus, if any there be, after deducting thereout the said penalties, fines, or forfeitures, and the costs and charges Fifteen per cent of the penalties and fines or forfeitures so recovered, to be applied to him or them who shall discover, inform, or sue for the same, as in this and the rule above mentioned, and the remainder thereof to the United Company of Merchants of England trading to the East Indies — Reg II, 1802, sec xxxiii.

## SUDDER DISTILLERIES.

36 In or near every city and town at which a collector or assistant collector (as at Chittra and Bancoora) of the land revenue is or may be stationed, a sufficient spot of ground shall be enclosed, either by a wall or other fence, according as the Board of Revenue may direct, to be denominated the Sudder Distillery of the district in which it may be established —Reg. X, 1813, sec iii, cl 1

37 No stills shall be constructed, kept, or worked within four coss of any of the distilleries above described, or of the boundary of the city or town in or near which they may be established, except within the circumference of the said distilleries or enclosures, and no person shall be per-

mitted to introduce within those limits spirits manufactured at any other place: but this shall be held to apply only to persons introducing spirits within the said limits, without having a regular license or pass from an officer authorized by Government to grant the same, and shall not be construed to restrict the revenue authorities from granting licenses or passes, nor to affect their validity when granted.—Reg. X., 1813, sec. iii., cl. 2, and Reg. VII., 1824, sec. vi.

38. The rate of duty to be levied on the produce of the above mentioned distilleries, respectively, shall be fixed by the Board of Revenue, at or before the commencement of each current Bengal, Fussily, and Willaity years.—Reg. X., 1813, sec. iii., cl. 3.

39. The duty shall be paid (agreeably to the rate per gallon which may be established) under the preceding clause in the several districts respectively, by the vendor or other person by whom it may be removed from the distillery, and each gallon shall weigh 304 tola weight.—Reg. X., 1813, sec. iii., cl. 4.

40. No liquor shall be allowed to be removed from any of the said distilleries, but under a pass from the collector or other officer in charge of the abkary mehal.—Reg. X., 1813, sec. iii., cl. 5.

41. It shall be competent to the Board of Revenue or other authority exercising the powers of that Board, with the sanction of Government, to cause manufactories of the liquor denominated putchwye, or any other spirituous liquor or intoxicating drug, to which the system may be advantageously applicable, to be established in all or any of the districts subject to its authority, under the same rules and provisions as are prescribed for the establishment and management of sudder distilleries, in so far as the same can be applied, and likewise with the said sanction, to make such alterations in and additions to the existing rules and provisions relative to the management of the said establishments as may from time to time be deemed expedient.—Reg. VII., 1824, sec. ix., cl. 3.

42. It shall and may be lawful for the Board of Revenue, or other authority exercising the powers of that Board, to direct the discontinuance of the sudder distillery or distilleries established under the provisions of this Regulation, within any of the districts under their superintendence, whenever and so long as such a measure may appear to be expedient; and in such cases, and so long as the said distillery or distilleries may be discontinued, the general rules applicable to places beyond the limits of sudder distilleries shall apply to the sudder station of the collector, deputy, or assistant collector, and its vicinity; the special provisions relative to sudder distilleries, and the places within limits thereof, being to the like extent, and for the like period, suspended.—Reg. VII., 1824, sec. ix., cl. 4.

43. Provided also, that it shall and may be lawful for the said Board, or other authority aforesaid, to fix the limits within which the spirits manufactured at any sudder distillery are exclusively to be sold, and the special rules applicable to such distilleries, enforced in such manner as may in each case from time to time appear to be expedient; and wherever the special rules aforesaid may so cease, the manufacture and sale of spirituous liquors will of course become subject to the general provisions applicable to places beyond the said limits.—Reg. VII., 1824, sec. ix., cl. 5.

44. Each sudder distillery shall be placed under the immediate charge of a native superintendent, who shall be denominated darogah of the sudder distillery of the district in which it may be established; who shall keep an account of the quantity and strength of the spirits manufactured in the distillery, and who shall be responsible to the collector or assistant collector that no liquor be removed from the distillery without a regular pass.—Reg. X., 1813, sec. iv.

45. On granting licenses agreeably to form (No. 1) annexed to this Regulation for the sale of spirits manufactured in a sudder distillery, the collector or other officer in charge of the abkary mehal shall adjust with the vendors the number of gallons which they shall respectively receive each day from the distillery, and the duty on the quantity so fixed, according to the rate previously settled by the Board of Revenue, under para. 38; and monthly passes shall be issued to the vendors accordingly.—Reg. X., 1813, sec. v.

46. A pass prepared agreeably to the form (No.2) annexed to this Regulation shall be granted every month to each licensed vendor, specifying the name of the vendor, the number and situation of his shop, and the quantity of spirits to be passed daily; and the darogah of the distillery shall certify daily on the back of each pass the quantity of spirits issued from the distillery, and likewise the hour at which the liquor may have been removed.—Reg. X., 1813, sec. vi.

47. Persons licensed to retail spirits, being the produce of a sudder distillery, who may be desirous of obtaining from such distillery a quantity of spirits exceeding the number of gallons specified in their monthly passes, shall, upon payment of the established rate of duty on such additional quantity, be furnished by the collector or other officer in charge of the abkary mehal with an extra pass, to be prepared agreeably to the form (No. 3) annexed to this Regulation.—Reg. X., 1813, sec. vii.

48. It is to be clearly understood, that no spirits shall be removed from any sudder distillery, the strength of which may exceed twenty-five per cent. below London proof. If the process ob-

served in the manufacture shall produce spirits exceeding that standard, they shall be reduced to that strength previously to their removal from the distillery.—Reg. X., 1813, sec. viii.

49. All persons who may be discovered in any attempts to evade the rules prescribed by this Regulation for the management of sudder distilleries, either by the establishment of stills within the prohibited limits, by the introduction of spirits manufactured at other places, or by attempts to convey spirits from the distillery without a proper pass from the collector or other officer in charge of the abkary mehal, or without the attestation of the superintendent, or exceeding the quantity specified in any such pass, shall, on conviction, be subject to the penalties hereinafter prescribed by paras. 105 to 113.—Reg. X., 1813, sec. ix.

50. A register of all passes which may be issued shall be kept by the collector or other officer in charge of the abkary mehal, and the passes shall be returned by the vendors at the expiration of the period for which they have been granted, and when they are no longer in force.—Reg. X., 1813, sec. x.

51. For the convenience of vendors residing in large cities and principal towns, the Board of Revenue are hereby authorized to sanction the establishment of two distilleries, but not more, for the supply of each of such cities and towns. In cases, likewise, in which the Board may be of opinion that distilleries can be advantageously and conveniently established at any of the other large towns in the interior of the different districts on the footing of the sudder distilleries, they are hereby empowered to have recourse to that measure; being careful, however, not to sanction them, except in cases in which they can be vigilantly controlled by the collectors or other officers in charge of the abkary mehal.—Reg. X., 1813, sec. xi.

52. It shall be the duty of the Board of Revenue to furnish the collectors, or other officers in charge of the abkary mehal, subject to their authority, respectively, with such instructions as they may deem best calculated for the internal control of the distilleries, especially with the view of preventing the admixture of noxious drugs with the spirits, of encouraging the introduction of an improved method of distillation, and the use of the best materials, and of preventing the illicit removal of spirits.—Reg. X., 1813, sec. xii.

## LICENSES FOR MANUFACTURE AND SALE.

53. The following rules shall be observed with respect to the manufacture and sale of spirituous liquors, at places situated more than four coss from the sudder distilleries, or distilleries established on that principle, in the interior of the different zillahs.—Reg. X. 1813, sec. xiv., cl. 1.

54. The rate of duty shall be fixed by the collectors, with the sanction of the Board of Revenue, at or before the commencement of every Bengal, Fussily, or Willaity year, in the several pergunnahs, or other known divisions of the different districts.—Reg. X., 1813, sec. xiv., cl. 2.

55. It shall be the duty of the Board of Revenue to cause the highest rates of duty to be fixed which can be introduced, without giving rise to the illicit manufacture and sale of spirits.—Reg. X., 1813, sec. xiv., cl. 3.

56. Persons proposing to take out licenses under this Regulation shall uniformly specify, in their application for such licenses, whether it is intended that the manufacture and sale should be conducted at one and the same place, or at different places, and licenses shall be granted in conformity to the forms (Nos. 4 and 5) annexed to this Regulation accordingly.—Reg. X., 1813, sec. xiv., cl. 4.

57. A cabooleat shall be executed by persons obtaining licenses for the manufacture and sale of spirituous liquors under this rule, in strict conformity to the tenor of such licenses.—Reg. X., 1813, sec. xiv., cl. 5.

58. The rate of duty having been fixed under paragraph 54, and the licenses and cabooleats having been interchanged between the collectors or other officers in charge of the abkary mehal, and the distillers, the duty shall be levied at the expiration of every ten or twenty days, or at the close of each month, as may appear to the collectors or other officers in charge most convenient, subject of course to any instructions which they may receive on this point, from time to time, from the Board of Revenue.—Reg. X., 1813, sec. xiv., cl. 6.

59. Any license which may be issued under these rules shall only be considered to authorize the establishment of one still. If the distiller shall be desirous of keeping and working more than one still, he shall take out a separate license or licenses, conformably to the number of stills, and shall pay increased duty accordingly.—Reg. X., 1813, sec. xiv., cl. 7.

60. It will be the duty of the collectors or other officers in charge of the abkary mehal to adopt the necessary means to prevent the introduction of spirits manufactured under the foregoing rules into any place situated within four coss of the sudder distilleries, or of the city or town at or near which they may be established, or of any distillery established on that principle in the interior of any of the districts.—Reg. X., 1813, sec. xiv., cl. 8.

61. The retail sale of spirituous liquors, whether imported by sea or land, or manufactured in

this country, by whatever process, except under licenses from a collector or assistant collector or other officer duly authorized to grant such license, is and shall be considered to be illegal, and the rules of the existing Regulations, whereby certain penalties are prescribed for the illicit sale and manufacture of spirituous liquors, shall be held to be equally applicable to all descriptions of spirits, unless otherwise specially provided. In like manner the retail sale of wines, or fermented liquors of any description, except under license, is hereby prohibited, under pain of the same penalties as are prescribed for the illicit sale of spirituous liquors.—Reg. VII., 1824, sec. ii., cl. 1.

62. Persons not being British-born subjects shall not, within the said territories, sell spirits or wines of any kind, whether imported by sea or land, or manufactured in the country, without a license from the collector of the district, or other officer in charge of the abkary mehal.—Reg. VII., 1824, sec. ii., cl. 2.

63. In like manner, persons being British-born subjects shall not retail spirits or wines of any kind in any part of the territories dependent on this presidency, without a license from the collector of the district, or other officer in charge of the abkary mehal, or specially appointed by Government to collect the duties chargeable on spirits manufactured by the said persons.—Reg. VII., 1824, sec. ii., cl. 3.

64. The wholesale vend of wines and spirits beyond the limits of Calcutta, excepting under licenses from the collector or other officer in charge of the abkary mehal, is hereby prohibited. Persons receiving such licenses shall pay a fee of sixteen rupees for each license received by them.—Reg. VII., 1824, sec. v., cl. 1.

65. Any sales of wines or spirituous liquors, in a less quantity than two gallons, shall be held to be a retail sale.—Reg. VII., 1824, sec. v., cl. 2.

66. All persons receiving a license for the retail sale of spirits manufactured at any European distillery, shall pay a duty to Government of such amount per gallon as shall, with the still-head duty, equal the highest amount payable under the preceding rules, on spirits manufactured at the sudder distillery of the district in which such retail sale shall be conducted, or at the nearest sudder distillery, if there be none within the district, due allowance being likewise made for the difference in the strength of the spirit.—Reg. VII., 1824, sec. iv., cl. 1.

67. Licenses for the retail sale of spirits, manufactured in the sudder distilleries, shall be granted by the collector or other officer in charge of the abkary mehal, in the form No. 1 of the Appendix.—Reg. X., 1813, sec. v., and Reg. VII., 1824, sec. vi.; Act XXV., 1840.

68. All persons receiving a license for the retail sale of spirits, manufactured in Europe or America, of Batavia or Ceylon arrack, or of any spirits whatsoever imported by sea, shall in like manner pay a retail duty to Government of such amount per gallon as shall, with the duty of customs or other duty paid on the importation of the said spirits, equal the highest amount of duty payable on spirits manufactured at the sudder distillery of the district, or at the nearest distillery if there be none within the district, allowance being made for the difference in the strength of the spirits.—Reg. VII., 1824, sec. iv., cl. 2.

69. Persons receiving a license for the retail sale of wines of any sort shall pay a retail duty to Government equal to the duty payable under the above rules on proof spirits.—Reg. VII., 1824, sec. iv., cl. 3.

70. Persons receiving licenses for the retail of wines or spirituous liquors shall be previously required to enter into such agreements relative to the payment of the retail duty, and with such security as the officer granting the license, or the Board, or other authority under which such officer may be placed, shall, from time to time, direct; and any breach of the conditions stipulated in such agreement shall, besides the forfeiture of any penalty specially provided for, subject the offender to the penalties prescribed for the illicit sale of spirituous liquors.—Reg. VII., 1824, sec. iv., cl. 4.

71. Persons desirous of taking out licenses for the manufacture or sale of spirituous liquors, intoxicating drugs, including taury, or putchwye, shall give the security of two responsible persons for the due performance of their engagements: Provided, however, that if any such manufacturer shall make a deposit, either in cash or bank notes, equal to the amount of the duty payable by him for twenty days, such deposit shall be received in lieu of the security to be otherwise required. —Reg. X., 1813, sec. xxvi.

72. Licenses granted under the provisions of this or any other Regulation, for the retail sale of spirituous liquors, taury, or putchwye, or of intoxicating drugs, shall be in force for one year only, from the date on which they may be granted, unless where otherwise specially directed by Government, or by the Board of Revenue, or other authority exercising the powers of that Board, who are hereby declared to be competent, subject to the restriction herein after prescribed, to cause licenses for the manufacture or sale of the said articles to be granted for such periods as may in each case be deemed expedient; but no licenses or leases for a period exceeding five years shall be held to be binding on Government, unless they shall have been granted with the sanction of the Governor-General in Council.—Reg. VII., 1824, sec. vii., cl. 2, and sec. ix, cl. 1.

73. It shall also be competent to the Board of Revenue, or other authority exercising the powers of that Board, with the sanction of Government, to alter and modify the stipulations contained in the licenses held and engagements executed by licensed manufacturers or vendors of spirituous or fermented liquors, taury, putchwye, or of intoxicating drugs, as may from time to time appear expedient, any thing in the existing Regulations notwithstanding; and any violation by such vendor or manufacturer of the stipulations specified or engagement executed by him, shall subject the party to the penalties prescribed for illicit sale.—Reg. VII., 1824, sec. vii., cl. 3.

74. Licenses taken out for the manufacture and sale of spirituous liquors, intoxicating drugs, including taury, or putchwye, shall be liable to be cancelled, at the discretion of the collector or other officer invested with the charge of the abkary mehal, in case such manufacturer or distiller shall, in any case, fail to pay the duty for which he had engaged during a period of fifteen days: Provided, however, that if the collector or other officer shall have grounds to believe that such failure has arisen from unforeseen circumstances, and not in any design to defraud the public revenue, it shall be competent for him to postpone the annulment of the license during a period of fifteen days more.—Reg. X., 1813, sec. xxviii.

75. All licenses as aforesaid shall, at all times, be resumable by the officer by whom they may have been granted, or by any other officer exercising similar or superior powers in the management or control of the abkary department at the place or places to which the license may apply: Provided, however, that if in any case a license shall be resumed, or refused to be granted by the collector of a district, or officer in charge of the abkary mehal, and the party may consider himself aggrieved by the order passed by the collector in his case, he shall be at liberty to appeal from the order of the collector to the Board of Revenue, or other authority exercising the powers of that Board; and the Board or other authority aforesaid will confirm, modify, or annul the said order, as the circumstances of the case may appear to require. Provided further, that if a collector, or other officer in charge of the abkary mehal, shall cancel the license granted to any retail vendor of spirituous liquors or intoxicating drugs, for any cause excepting for a breach of the peace, or a violation of any of the regulations or orders of Government, without previous notice of one month, the party whose license may be cancelled shall receive such compensation for any damage he may thereby sustain, as the Board of Revenue, or other authority aforesaid, shall adjudge, on a consideration of the circumstances of the case; but no suit for the recovery of damages alleged to be sustained from the revocation of a license by a collector or other officer in charge of the abkary mehal, shall be entertained by any Court of Judicature.—Reg. VII., 1824, sec. vii., cl. 4.

76. Taury shall not be sold, whether in a fermented or unfermented state, except under licenses from a collector, assistant collector, or other officer in charge of the abkary mehal, for which the vendors shall pay a certain daily tax to Government.—Reg. X., 1813, sec. xv. cl. 1.

77. It shall be the duty of the Board of Revenue to determine, at or before the commencement of each Bengal, Fussily, or Willaity year, the rate of duty which shall be established on the sale of taury in the different towns and villages in the several districts subject to their authority respectively.—Reg. X., 1813, sec. xv., cl. 2.

78. Putchwye shall not be sold except under licenses from a collector, assistant collector, or other officer in charge of the abkary mehal, for which the vendors shall pay a certain daily tax to Government.—Reg. X., 1813, sec. xvi., cl. 1.

79. It shall be the duty of the Board of Revenue to determine, at or before the commencement of each Bengal, Fussily, and Willaity year, the rate of duty which shall be established on the said article in the different towns and villages of the several districts subject to their authority respectively.—Reg. X., 1813, sec. xvi., cl. 2.

80. Intoxicating drugs, whether in a dry state or infused in water or any other fluid, shall not be sold except under licenses from a collector, assistant collector, or other officer in charge of the abkary mehal, for which the vendors shall pay a certain daily tax to Government.—Reg. X., 1813, sec. xvii., cl. 1.

81. It shall be the duty of the Board of Revenue to determine, at or before the commencement of each Bengal, Fussily, and Willaity year, the rate of duty which shall be established on the sale of intoxicating drugs in the different towns and villages of the several districts subject to their authority respectively. Provided, however, that nothing contained in this section shall be construed to authorize the sale of the articles denominated muddut, or koppah, these articles being of a most noxious quality and highly prejudicial to health.—Reg. X., 1813, sec. xvii., cl. 2.

82. Persons licensed to manufacture or vend spirituous liquors, intoxicating drugs, taury, and putchwye, shall be at liberty to surrender their licenses, on giving fifteen days' previous notice to the collector or other officer in charge of the abkary mehal, and paying a sum equal to the tax for that period, over and above the amount payable by them in the ordinary course, and under the engagements contracted by them with the collector.—Reg. X., 1813, sec. xxix.

## ABKARY DAROGAHS.

83. For the more convenient collection of the duties on spirituous liquors, intoxicating drugs, and other articles, in places situated beyond the limits to which the operation of the sudder distilleries is to extend, officers shall be appointed by the collectors or other officers in charge of the abkary mehal, to be denominated abkary darogahs, for the collection of the said duties in all such places.—Reg. X., 1813, sec. xviii., cl. 1.

84. The local limits of the authority of the abkary darogahs, respectively, shall be settled by the Board of Revenue, who will recommend to Government what allowances those officers should receive.—Reg. X., 1813, sec. xviii., cl. 2.

85. The office of abkary darogah may either be united with that of tehsildar, in districts in which the latter office exists, or may be vested in separate persons, according as the Board of Revenue may deem most advisable.—Reg. X., 1813, sec. xviii., cl. 3.

86. It shall be competent for persons holding the office of abkary darogah to apprehend and send to the collector or other officer in charge of the abkary mehal, any individual having an unlicensed still in his possession, or engaged in the illicit sale of spirituous liquors, taury, putchwye, or intoxicating drugs.—Reg. X., 1813, sec. xviii., cl. 4.

87. In the cases mentioned in the preceding rule, the collector or other officer in charge of the abkary mehal, shall regularly proceed in the manner hereafter prescribed in paras. 105 to 113, with regard to other illicit dealers.—Reg. X., 1813, sec. xviii., cl. 5.

88. It shall be the duty of the Board of Revenue to furnish the collectors or other officers in charge of the abkary mehal, with such detailed instructions for the guidance of the abkary darogahs, as they may deem best calculated to insure a faithful discharge of the duties entrusted to the said officers.—Reg. X., 1813, sec. xviii., cl. 6.

## LEASES.

89. In cases in which it may be deemed advisable, the collectors or other officers in charge of the abkary mehal, are hereby authorized, with the sanction of the Board of Revenue, to let the duties leviable on the manufacture and sale of spirituous liquors in any pergunnah or other known division of a district to farm.—Reg. X., 1813, sec. xix., cl. 1.

90. No licenses or leases for a period exceeding five years shall be held to be binding on Government, unless they shall have been granted with the sanction of the Governor-General in Council.—Reg. VII., 1824, sec. ix., cl. 1.

91. In cases in which an arrangement of this nature may be judged advisable by the Board of Revenue, an advertisement shall be issued, signifying that proposals will be received for a certain time for the farm of the duties leviable on the manufacture and sale of spirituous liquors, and the highest offers, provided they be accompanied with good and substantial security, shall be accepted.—Reg. X., 1813, sec. xix., cl. 2.

92. Whenever the duties on spirits may be let to farm in any pergunnah or other known division of a district under the foregoing rules, it shall be competent to the farmer to make his own arrangements with the manufacturers and vendors within the limits of his farm; and no persons, excepting those who may be regularly authorized by the farmer, shall manufacture or sell spirits within those limits, on pain of incurring the penalties established by paras. 105 to 113.—Reg. X., 1813, sec. xix., cl. 3.

93. Nothing contained, however, in the preceding rules, shall be construed to authorize the collectors or the above-mentioned Boards to let the duties on spirits to farm, at any place included within the limits prescribed for the sudder distilleries.—Reg. X., 1813, sec. xix., cl. 4.

94. Those Boards are likewise required to be careful that no arrangement of this sort be adopted, except in remote pergunnahs or other places where the manufacture and sale are not liable to interfere with the revenue derived from stills specially licensed by the collectors.—Reg. X., 1813, sec. xix., cl. 5.

95. The Board of Revenue, and other authorities exercising the powers of that Board, are declared competent, under the restriction hereafter prescribed, to cause leases of the duties leviable on the manufacture and sale of spirituous or fermented liquors, taury, and putchwye, and of intoxicating drugs, to be granted for such periods as they may deem advisable; such leases to be liable to be revoked by orders of the said Board, or other authority, or of the Governor-General in Council, and compensation to be awarded in such cases to the party, in the manner above prescribed for the case of the resumption of licenses.—Reg. VII., 1824, sec. viii., cl. 1.

## ARREARS.

96. Whenever an arrear may fall due from any person manufacturing or selling spirituous liquors, taury, putchwye, or intoxicating drugs, including opium, it shall be competent to the

collector, or other officer in charge of the abkary mehal, to enforce payment of such arrear from the defaulter or his surety, by the process which is or may be in force for the recovery of arrears of revenue due from farmers of land and their sureties, in the provinces subject to the superintendence of the Board of Revenue —Reg XVII, 1814, sec ii

97 The foregoing rule shall be, and be considered equally applicable to persons to whom the duties leviable on the manufacture and sale of the said articles, or any of them, may be farmed, and to the sureties of such persons Provided further, that the farmers of such duties shall be entitled to use, and cause to be enforced, the same means and process for the recovery of arrears due to them by the vendors and manufacturers of the article aforesaid, or any of them, within the limits of their respective farms, as zemindars, or other sudder malguzars, do or may lawfully use and cause to be enforced for the realization of arrears of rent due by their under-tenants, subject to the same rules and restrictions as attach to such zemindars and sudder malguzars in that behalf.—Reg. VII, 1824, sec viii, cl. 2.

## TRANSIT

98. Foreign spirits, and spirits manufactured in this country, according to the European process, which may be found in transit without the proper pass, rowannah, or certificate, attesting the payment of the import, or still-head duty, not being evidently designed for the immediate private use or consumption of the owner, shall be confiscated, and the owner or person in charge of the same shall be subject to the penalties herein prescribed for the illicit sale and manufacture of spirituous liquors and intoxicating drugs, the said forfeiture and penalty to be adjudged, and determined and enforced, according to the rules of this Regulation —Reg VII, 1824, sec xi.

99 Certificates attesting the payment of the still-head duty shall be granted to all persons removing spirits from any established distillery, by the officer or officers entrusted with the collection of the same, or such person as he or they may appoint Such certificates shall be in force for one year only from the date on which they may be granted, but the owner of the spirits covered by any certificate shall be entitled to an exchange certificate for another year, on applying to the officer in charge of the abkary mehal, and satisfying him that the identical spirits are forthcoming, such certificate being renewable in like manner yearly A fee at the rate of two per cent on the amount of the duty specified in the certificate shall be paid to the officer granting a renewal of it —Reg VII, 1824, sec xii, cl 1

100 Any dealer in spirits being desirous of dividing a despatch of spirits, covered by a single certificate, into smaller quantities, shall be entitled to receive from the officer in charge of the abkary mehal as many parcel certificates as he may require, on surrendering the original certificate, and satisfying the officer that the identical spirits therein referred to are forthcoming A like fee of two per cent on the amount specified in the parcel certificates shall be paid to the officer granting the same —Reg VII, 1824, sec xii, cl. 2

## PREVENTION OF ILLEGAL ACTS—PENALTIES AND PUNISHMENTS

101. A general prohibition being established against the unlicensed manufacture and sale of spirituous liquors, taury, putchwye, and intoxicating drugs, any person who may be convicted (in the manner herein described) of such illicit manufacture or sale, shall be liable to the payment of a fine not exceeding rupees five hundred, or in the event of the fine not being duly discharged, to imprisonment in the Dewanny gaol of the district in which such conviction may take place, for a period not exceeding six months —Reg X, 1813, sec xxi

102 The same penalties shall attach to any person not being a licensed vendor, who may be found in possession of any quantity of spirits or intoxicating drugs, exceeding the quantity which licensed retail vendors can or may legally sell or allow to be removed from their shops Provided, however, that the above rules shall not be considered to apply to liquors which individuals may have legally purchased for private use, and if the quantity may not exceed what the condition and circumstances of the party may render it probable that he should possess for that purpose —Reg VII., 1824, sec xi

103 If any British-born subject shall retail spirits or wines of any description in any place, of which the distance from the town of Calcutta may not exceed ten miles, without a license duly granted to him, he, she, or they, so offending, shall for every such sale forfeit the sum of rupees five hundred, to be heard, adjudged, and determined, according to the rules prescribed in para 35 —Reg VII, 1824, sec x., cl 1

104 These rules are hereby declared applicable to all persons, as well British-born as others, who shall retail in any part of the provinces subordinate to this presidency, at the distance of more than ten miles from Calcutta, spirituous liquors or wines of any description, without a license, as

well as to all persons not being British-born, who shall retail spirituous liquors of any description without a license, in any place beyond the limits of Calcutta.—Reg. VII., 1824, sec. x., cl. 2.

105. All investigations which it may be necessary to institute respecting the illicit manufacture or sale of spirituous liquors, wines of any descriptions, taury, putchwye, or intoxicating drugs, shall be conducted by the collectors of the land revenue, or other public officers intrusted with the charge of the abkary mehal.—Reg. X., 1813, sec. xxii., cl. 1.

106. Whenever any charge may be preferred, or information lodged on oath or affirmation against any person for the infringement of the prohibition noticed in the preceding rule, or whenever any reasonable ground of suspicion shall incidentally appear against any such person, from proceedings which may be holden by the collector in any other case, it shall be competent for the collectors or other officers intrusted with the charge of the abkary mehal, to cause the person charged with, or suspected of the said offence, to be apprehended, in order that a regular inquiry may be made into the merits of the case.—Reg. X., 1813, sec. xxii., cl. 2.

107. Investigations under this rule shall be commenced immediately on the arrival of the party accused or suspected at the cutcherry of the collector, and shall be prosecuted with the least possible delay. It shall be the duty of the Board of Revenue to require such periodical reports or returns, regarding the discharge of this duty by the collectors, as may appear to those Boards best calculated to enable them to judge whether the inquiries in question are conducted with the least possible delay, and whether the parties impleaded do not suffer any inconvenience which can be avoided.—Reg. X., 1813, sec. xxii., cl. 3.

108. Any person convicted before a collector of the offence of manufacturing or selling any of the articles specified in para. 105 shall be adjudged by the collector to pay such fine as, on due consideration of the circumstances of the case, may be deemed proper, not exceeding the sum specified in para. 101, or in default of payment, to be confined for a period not exceeding the term specified in the same rule.—Reg. X., 1813, sec. xxii, cl. 4.

109. Whenever any person may be adjudged to pay a fine or to be imprisoned for the illicit sale and manufacture of spirituous liquor, or other articles under these rules, he shall be immediately sent with a certificate to the judge of the city or zillah, stating the purport of the order passed against the person in question; and the judge shall, on those grounds, give the necessary directions for the execution of the order accordingly.—Reg. X., 1813, sec. xxii., cl. 5.

110. Persons who, after the investigation prescribed by these rules, shall not have been convicted of the offence with which they stood charged or suspected, shall be immediately released, and the expense to which they have been actually subject on account of the inquiry shall be paid to them by the collectors on the part of Government.—Reg. X., 1813, sec. xxii., cl. 6.

111. Persons deeming themselves aggrieved by any investigation instituted under this Regulation, or by the judgment passed by the collector or other officer in charge of the abkary mehal, or in any other respect, shall be at liberty to prefer their complaint to the Board of Revenue, either through the medium of the collectors or officers themselves, or by means of vakeels; and the Board, after calling for such information as they may require from the collectors or other officers in charge of the abkary mehal, shall confirm or modify the judgment given, or pass such other orders on the subject as may appear to them most conformable to the principles of substantial justice.—Reg. X., 1813, sec. xxii., cl. 7.

112. A moiety of any fines which may be levied under the provisions contained in these rules shall be paid to the person or persons through whose means the illicit manufacture or sale may have been detected.—Reg. X., 1813, sec. xxii., cl. 8.

113. In cases in which it may be necessary to imprison the offender, and in which a fine cannot or may not be levied from him, a reward of ten rupees shall be paid on the part of Government to the informant or informants, in lieu of his or their share of the above-mentioned fine.—Reg. X., 1813, sec. xxii., cl. 9.

114. With the view of restraining the illicit manufacture and sale of spirituous liquors, the collectors, and other persons invested for the time being with the charge of the abkary mehal, shall be deemed competent, in the cases hereinafter described, to issue search-warrants for the discovery of unlicensed stills or the produce of such stills.—Reg. X., 1813, sec. xxiii.

115. It shall and may be lawful for the Governor-General in Council to grant authority to such public officers or other persons whatsoever, to seize and detain contraband spirits within such local limits as he may from time to time judge necessary or expedient.—Reg. VII., 1824, sec. xvii., cl. 1.

116. Whenever any person not vested with powers of seizure by the general Regulations may be especially authorized to seize under the above rule, the arrangement shall be notified by an advertisement published in the cutcherry of the officer in charge of the abkary mehal, and in the Adawlut of the city or zillah within the jurisdiction of which the authority so given is to be exercised.—Reg. VII., 1824, sec. xvii., cl. 2.

117. Search-warrants, of the description of those mentioned in the preceding rules, shall not be issued, unless the collectors or other officers in charge shall have strong grounds to believe,

either from charges specifically preferred on oath or affirmation, or from their own personal knowledge, or from information incidentally obtained from the proceedings holden in any other case, that spirituous liquors or wines are illicitly manufactured, sold, or deposited on the premises proposed to be searched.—Reg X, 1813, sec xxiv., cl 1.

118 Search-warrants shall only be executed in the day-time, that is, between sunrise and sunset, and if possible, in the presence of two or more respectable inhabitants of the village in which the house or place proposed to be searched may be situated —Reg. X, 1813, sec xxiv, cl 2.

119 All search-warrants which may be issued under the foregoing rules shall be addressed to the nazir, abkary darogah, or other officer on the fixed establishment of the collectors.—Reg X, 1813, sec. xxiv, cl. 3

120 It shall be the duty of the magistrates, darogahs of police, and other officers of that department, to support the officers of the collectors in the discharge of the duty which may be delegated to them under these rules Provided, however, that nothing contained in these rules shall be construed to authorize the officers of the collectors to enter the zenana or apartments of the women, in houses belonging to persons of respectability and credit, that is, of all those classes whose women do not ordinarily appear in public.—Reg. X, 1813, sec xxiv, cl 4

121. Persons who may be detected, by the means above described, in the illicit manufacture of spirits, or in selling or concealing spirits so manufactured or wines, shall be liable to the penalties established by para 101 of the present Regulation, and on judgment being formally passed by the collectors, it shall be enforced in the mode prescribed in para 109.—Reg X., 1813, sec. xxiv, cl 5.

122 Cutwals, darogahs of police, cutwals of military bazars, and other native officers invested with local jurisdiction, who may authorize, support, countenance, or connive at the establishment of any unlicensed shop or shops, in any place subject to their control or influence, shall, besides being liable to dismission from office, be further subject, on conviction before the magistrate of the zillah, to the payment of a fine not exceeding rupees five hundred the fine if not duly paid shall be commutable to imprisonment not exceeding six months.—Reg VII., 1824, sec xiii, cl 2.

123 Any person giving information by which a native officer shall be prosecuted to conviction, shall be entitled to a moiety of the fine which may be levied from the offender, but should it appear on investigation that the information originated in malice, or in motives clearly vexatious and unwarrantable on the side of the informant, it shall be competent for the officer by whom the case may be tried, to impose such a fine as may appear to be reasonable, not exceeding, however, in any case, fifty rupees, or to order the offender to be imprisoned for a period not exceeding fifteen days. —Reg VII, 1824, sec xiv.

124 If any proprietor, farmer, sezawul, tehseeldar, or other manager of land, shall authorize or connive at the illicit manufacture or sale of spirituous liquors, taury, or intoxicating drugs, whether in a dry state or infused in water or other fluid, within the estate or farm held or managed by them, he shall, on conviction before the collector of land revenue, or other officer in charge of the abkary mehal, be liable to the payment of a fine not exceeding rupees five hundred, commutable, if not paid, to imprisonment for a period not exceeding six months —Reg VII., 1824, sec. xvi, cl 2

125 All charges of the nature specified in the above clause are hereby declared cognizable exclusively by the collector of land revenue or other officer in charge of the abkary mehal, anything in the existing Regulations to the contrary notwithstanding; and the investigation thereof shall be conducted under the rules contained in paras 105 to 113. Provided, however, that the collector or other officer aforesaid shall not in such cases issue a warrant for the apprehension of the person charged with the said offence, but shall proceed in the manner prescribed in Section LXXXIV Regulation XIII 1816, in regard to persons accused of acts done in violation of the rules of that Regulation —Reg VII., 1824, sec. xvi., cl 3.

126 Provided further, that the rules and provisions contained in Sections LXXXI, LXXXII LXXXV LXXXVI LXXXVII LXXXVIII. LXXXIX. and XC Regulation XIII 1816, shall be held and considered applicable to all cases in which persons shall be accused before the collector or other officer in charge of the abkary mehal, of acts rendering them liable to any of the penalties prescribed in this Regulation.—Reg VII, 1824, sec xvi, cl 4

127 The warrant of any officer authorized or specially appointed to adjudicate cases of contravention of the abkary laws, certifying the conviction of any individual, with a specification of the offence proved and penalty adjudged, shall be authority for the levying of any fine imposed, as therein specified, and for the detention of the person therein described in the civil gaol of the district, as may be therein prescribed: Provided always, that it shall be competent to the commissioner, upon appeal by the parties concerned, or of his own motion, to call for the papers and revise the proceedings in any case decided by such superintendent, and to alter or reverse the judgment passed thereon, and a like power shall be possessed and exercised by the Board of Revenue, or by any other Board possessing like authority, whenever they think proper — Act XXV., 1840, sec iv

128. Any officer employed in the abkary department above the rank of jemadar of peons, who shall receive information that any person without a license is engaged in the manufacture of fermented or spirituous liquors, or in the preparation of intoxicating drugs, or has on his premises fermented or spirituous liquors or intoxicating drugs in such quantity as may render such person liable to the suspicion of secretly and illicitly trafficking in such articles, shall and is hereby authorized and required to take the deposition of the informer in writing; and if the information so given shall appear credible, so as to justify such proceeding, it shall further be competent to such officer to enter and search such premises as may be declared by the informer to contain the illicit articles specified in his deposition, and to seize all illicit stills and materials of the kind used in manufacturing liquors and preparing drugs, as well as all fermented or spirituous liquors or intoxicating drugs, and to arrest the owner or occupant of the premises, together with all parties concerned in the transaction who may be found on the premises.—Act XXV., 1840, sec. v.

129. Except in cases already provided for by Section XVIII. Regulation VII. of 1824, if any person or persons shall by threats or violence prevent the lawful arrest of any person by an officer duly authorized to seize illicit stills, fermented or spirituous liquors or intoxicating drugs, and materials for the manufacture of the same, or shall procure by unlawful means his release after arrest, or shall obstruct any officer duly authorized in making search for or seizure of any of the above-mentioned illicit articles, or shall rescue such articles after seizure, or if the party found with any such illicit articles in possession, or any other person or persons shall resist such officer in the execution of a legal process, such person or persons shall severally and respectively be liable, on conviction before a magistrate, to be sentenced for the same to pay a fine not exceeding five hundred rupees, commutable, if not paid, to imprisonment for a term not exceeding six months: provided, that such person or persons shall be further liable, in the event of an affray or breach of the peace occurring in consequence of his or their resistance, on conviction of the same before a competent tribunal, to such punishment as is prescribed in the general rules applicable to cases of affray and breach of the peace, in addition to the penalties above prescribed for the resistance of process.—Act XXV., 1840, sec. vi.

130. If any person shall wilfully and maliciously give false information in respect to there being an illicit still or illicit stills, or fermented or spirituous liquors or intoxicating drugs, or materials prepared for the manufacture of spirituous liquors and drugs, in any premises, and so procure that such premises shall be searched, to the injury and vexation of the owners thereof, or of any other person or persons whatsoever, such false informer shall, on conviction before a magistrate, besides being subject to any other penalties or damages to which he would be subject under the general law, be liable to imprisonment with or without labour for a term not exceeding two years, and to fine not exceeding five hundred rupees, commutable to a further term of imprisonment for six months, if not paid.—Act XXV., 1840, sec. vii., and Act XXIII., 1848.

131. Whenever any officer of the abkary department, duly authorized under para. 128, shall arrest any person charged with an infraction of the laws for the protection of the abkary revenue, or shall seize any still, or fermented or spirituous liquors or intoxicating drugs, or enter any premises for the purpose of searching for such illicit articles, he shall make a full report of all the particulars of such arrest or seizure or search to his official superior within twenty-four hours after the transaction has occurred.—Act XXV., 1840, sec. viii.

132. Whenever any person may be arrested by an officer employed in the abkary department, or by any other officer of other departments, duly empowered to make seizure of illicit stills or spirituous liquors or intoxicating drugs, or materials prepared for the purpose of manufacturing spirituous liquors or intoxicating drugs, the person making the arrest shall be bound to carry the party arrested with all convenient despatch to the officer of the department who may be competent to try the case; and no person so arrested shall be released until the case shall have been brought to judgment in the manner provided by law.—Act XXV., 1840, sec. ix.

133. Any officer who shall neglect to report all the particulars of an arrest, seizure, or search, within twenty-four hours after the transaction has occurred, or who shall delay carrying the person arrested to the proper officer with all convenient despatch, or who shall release or connive at the escape of the person arrested, shall be liable, on conviction, to dismissal from his situation, and to pay a fine not exceeding two hundred rupees, and to imprisonment for a term not exceeding three months, and in case of non-payment of the fine, to further imprisonment not exceeding three months; and the sentence shall be adjudged by any officer competent to adjudicate cases of contravention of the abkary laws.—Act XXV., 1840, sec. x.

134. It shall be lawful for any officer employed in the abkary department to enter and inspect at any time, by day or by night, the shop or premises in which any licensed abkar shall carry on the sale or manufacture of fermented or spirituous liquors, or intoxicating drugs or liquors, in order to satisfy himself that nothing is going on in contravention of the abkary laws, or of the conditions of the license.—Act XXV., 1840, sec. xi.

135. If any officer of the abkary department be convicted before the magistrate of any district of having vexatiously and unnecessarily seized the goods of any person on the pretence of seizing or searching for illicit stills, spirituous liquors, intoxicating drugs, or the materials for manufacturing the same, or of having vexatiously and unnecessarily arrested any person, or of committing any other excess not required for the execution of his duty, every such officer shall, besides dismissal, be punished with imprisonment not exceeding six months, and with fine not exceeding two hundred rupees, commutable, if not paid, to a further imprisonment not exceeding six months.—Act XXV., 1840, sec. xii.

136. Whenever in this Act or in any other law the terms "officers employed in the abkary department" are used, they shall be deemed and construed to apply to such officers as receive salary from and are appointed by the persons in charge of the abkary department in the district, or such officers as the commissioner of the abkary revenue may by special delegation or appointment empower to act in relation to this branch of the revenue.—Act XXV., 1840, sec. xiii.

137. Every person holding a license for the manufacture or sale of fermented or spirituous liquors or intoxicating drugs, shall preserve such license at the shop or premises specified in the body of the license, and shall exhibit the license on the demand of any abkary officer who shall desire to inspect the same; and any such licensed manufacturer or vendor who shall refuse or be unable to produce his license on the demand of any abkary officer, shall be liable, on conviction before a superintendent of abkary revenue, to a fine not exceeding two hundred rupees, or to imprisonment for a term not exceeding three months, and in case of non-payment of the fine, to further imprisonment not exceeding a like term.—Act XXV., 1840, sec. xiv., and Act IX., 1841.

138. One moiety of all fines realized from persons convicted of the illicit possession, or manufacture, or sale of fermented or spirituous liquors, or intoxicating drugs, excepting opium, and of the proceeds from sale of articles confiscated, shall, upon adjudication of the case, be awarded to the officer or officers who may have apprehended the offender or seized the illicit articles, and the other half shall be given to the informer, as provided in para. 112; and if no fine be realized, the commissioner may recommend, through the Board of Revenue, such reasonable reward, not exceeding the sum of two hundred rupees in each case, as may appear to him fit: provided, however, that it shall be competent to the Board of Revenue to prescribe by general order what classes of officers of the department shall receive reward, and what classes shall have no title to participate therein.—Act XXV., 1840, sec. xv.

139. Any officer employed in the abkary department who shall be convicted of conniving at the manufacture or sale of fermented or spirituous liquors without license, or by any licensed manufacturer or vendor contrary to the terms of such license, shall be liable to the same penalties that would be incurred by the offender at whose act in contravention of the law he so connived.—Act. XXV., 1840, sec. xvi.

140. Any person entrusted with the charge of a sudder distillery, or in any manner employed by the collector or other officer in charge of the abkary mehal, who may be convicted in the mode prescribed in paras. 105 to 113 of any fraudulent breach of trust in the execution of his duty, shall be subject to the penalties prescribed by para. 101.—Reg. VII., 1824, sec. xiii., cl. 1.

141. Whenever any person shall be convicted of an infraction of the laws for protection of the abkary revenue, after having been previously convicted of a like offence, he shall be liable, in addition to the penalty attached to such offence, to imprisonment in the Dewanny gaol for a period of six months; and a like punishment of six months' imprisonment shall be incurred, in addition to the punishment which may be inflicted for a first offence, upon every subsequent conviction after the second; and the warrant of the officer adjudicating any case under the provisions of this para. shall be authority for the judge or other officer in charge of the Dewanny gaol to hold the person described therein in confinement in such gaol, and for such time as may be specified and required in the said warrant.—Act XXV., 1840, sec. xvii.

## CALCUTTA SPECIAL RULES.

142. So much of Clause One Hundred and Fifty-nine of an Act of Parliament, numbered chap. 52, of the statutes passed in the thirty-third year of the reign of King George the Third, as relates to the sale of arrack or other spirituous liquors, within the town of Calcutta, and to the punishment of unlicensed traders in spirits or spirituous liquors, within the said town, are repealed.—Act XI., 1849, sec. i.

143. In addition to the distillery or distilleries which may be established under the control of the collector of the Twenty-four Pergunnahs for the supply of the suburbs of Calcutta and of the villages and places lying within four coss of the city, another distillery shall be established in the vicinity of Calcutta, for the supply of the city itself, to be conducted on the principles established for the management of the sudder distilleries, so far as those principles may be consistent with the provisions of the Legislature for regulating the sale of spirits within the city.—Reg. X., 1813, sec. xiii., cl. 1.

144. Spirits manufactured at the distillery last mentioned shall, on no account, be sold or consumed in any place except in the city of Calcutta, and under licenses obtained for that purpose from the collector. Any person infringing, or attempting to infringe, this rule, shall be subject to the penalties established for the illicit manufacture and sale of spirituous liquors by paras. 105 to 113.—Reg. X., 1813, sec. xiii., cl. 2.

145. It shall be the duty of the collector of the Twenty-four Pergunnahs to concert with the magistrates of Calcutta the best means of preventing the illicit sale of spirits manufactured at the distillery established for the supply of the city in any place beyond its limits.—Reg. X., 181 , sec. xiii., cl. 3.

146. The collection of the revenue arising from the retail sale of spirituous or fermented liquors and intoxicating drugs, within the town of Calcutta, shall be under the charge of the collector of Calcutta, who shall perform the duties connected therewith under the control of the commissioner of abkary and the Board of Revenue, and all proceedings of the collector held under this Act shall be subject, with or without appeal, to their revision.—Act XI., 1849, sec. ii.

147. The collector may appoint constables, darogahs, jemadars, burkundazes, and other officers, for collection of the said revenue and prevention of smuggling; and the officers so appointed, beside their ordinary respective designations, shall be styled "Abkary Officers."—Act. XI., 1849, sec. iii.

148. Every person who shall sell, by retail, any spirituous or fermented liquors or intoxicating drugs, hereinafter specified, within the town of Calcutta, without a license for that purpose under the hand and seal of the collector of Calcutta, shall be liable to a fine, not exceeding five hundred rupees, for each sale; but this enactment shall not apply to wholesale dealers, selling such small quantities of beer, wines, or spirits as may appear to the collector to be intended only as samples.—Act XI., 1849, sec. iv.

149. A sale of English or foreign beer, wines, or spirits, in any quantity, not exceeding two gallons, or of Bengal arrack or rum or other country spirit, in any quantity not exceeding one seer, or of taury in any quantity not exceeding four seers, or of ganjah or bhang, or any preparation or admixture of the same, in any quantity not exceeding one quarter of a seer, or of churrus, opium, chundoo, or muddut, or any preparation or admixture of the same, in any quantity not exceeding the weight of five tolas, shall be deemed a retail sale within the meaning of this Act.—Act XI., 1849, sec. v.

150. The sale of Bengal arrack or rum, or other country spirit, or of taury, or of ganjah, or bhang, or any preparation or admixture of the same, or of churrus, opium, chundoo, or muddut, or any preparation or admixture of the same, in quantities larger than those specified for each article in the preceding rule, is prohibited; and every person who shall act in breach of this prohibition shall be liable to the fine prescribed in paragraph 159 for the illicit possession of these articles; but this prohibition does not apply to the sale of spirituous or fermented liquors and intoxicating drugs, imported into Calcutta, under passes from the collector or other officer duly empowered in that behalf, and supplied by wholesale to licensed retail dealers, or to the sale of Bengal rum under bond for exportation by sea, or to the sale of opium intended for exportation by sea, and covered by a certificate to that effect, issued under the authority of the Board of Revenue.—Act XI., 1849, sec. vi.

151. The Board of Revenue shall have authority, at all times, to regulate the form of licenses to be granted under this Act, and to alter and add to the conditions thereof.—Act XI., 1849, sec. vii.

152. Every person taking out a license for the retail sale of spirituous or fermented liquors, or intoxicating drugs under this Act, shall execute a counterpart engagement in exact conformity with the tenor of such license.—Act XI., 1849, sec. viii.

153. Whenever a license shall be granted under this Act, the collector shall be authorized to demand, in consideration of the privilege granted, such fee, tax, or duty as may, from time to time, be fixed, with the sanction of the Board of Revenue: and such fee, tax, or duty may be made payable in advance, or at such period as may be settled by the collector.—Act XI., 1849, sec. ix.

154. The collector may withhold or recall a license, if any such fee, tax, or duty be not duly paid, according to the conditions upon which the license is granted, or in case of a breach of any of the other conditions thereof; or, with the sanction of the commissioner of abkary, for any other cause, giving one month's notice of such withdrawal; and any person selling, by retail, any spirituous or fermented liquors, or intoxicating drugs above specified, within the town of Calcutta, whilst such license is withheld, or after it is recalled, shall be subject to all the penalties provided by this Act for the unlicensed sale of spirituous or fermented liquors, or intoxicating drugs.—Act XI., 1849, sec. x.

155. Any licensed retail dealer may surrender his license on giving fifteen days' previous notice to the collector, and paying a sum equal to the tax for that time, over and above the sum payable under the license.—Act XI., 1849, sec. xi.

156. It shall not be lawful for the justices of the peace for the town of Calcutta to grant a

license to open or establish or keep open any hotel, punch-house, boarding-house, or any other house of public entertainment, within the town of Calcutta, in which any spirituous or fermented liquors or intoxicating drugs, above specified, may be sold to any person who has not taken out a license for the retail sale of such liquors and drugs; and any such license, granted by any justice of the peace, shall become void whenever the license for the retail of such liquors and drugs granted to such person is withheld or recalled by the collector under this Act.—Act XI., 1849, sec. xii.

157. The collector, after demand made in writing, may levy any arrear of tax or duty, due on account of any license granted under this Act, by distress and sale of the goods and chattels of the person from whom the same is due, provided that no such arrear shall be recoverable after the end of two years next after the same shall have become due, or next after an acknowledgment of the same in writing shall have been given by the person by whom the same is payable.—Act XI., 1849, sec. xiii.

158. A breach of any of the conditions of a license granted under this Act shall, beside entailing forfeiture of the license, be punishable by a fine not exceeding fifty rupees, and such fine shall be recoverable from the licensed dealer notwithstanding that such breach may have been owing to the default or carelessness of the servant or other person in charge of the shop. —Act XI, 1849, sec. xiv.

159. Any person, not being a licensed dealer, having in his possession, and any person carrying within the town of Calcutta, any greater quantity of spirituous or fermented liquors, or intoxicating drugs above specified, or any preparation or admixture of the same, except English and foreign beer, wines, and spirits, than the quantity specified for each article in paragraph 149, and not being protected by a pass or permit from the collector or other officer duly empowered in that behalf, shall be liable to a fine, not exceeding five hundred rupees, except in the case of opium, and in the case of opium, to a fine not exceeding the rate of sixteen rupees for each seer found in the possession of, or carried by, such person; and if such last-mentioned fine shall not amount to five hundred rupees, such person shall be liable to a further fine, not exceeding such sum as shall make the total fine imposed amount to five hundred rupees.—Act XI., 1849, sec. xv

160. Besides the penalties above specified for the illicit sale, possession, and carrying of spirituous or fermented liquors, or intoxicating drugs, all such liquors and drugs found in the possession of any offender against this Act shall be seized and confiscated; and the vessels, packages and coverings in which such liquors and drugs are found, and the animals and conveyances used in carrying them, shall also be liable to seizure and confiscation.—Act XI., 1849, sec. xvi.

161. Any abkary officer above the rank of a peon or chuprassy may enter and inspect at any time, by day or by night, and any abkary officer may enter and inspect by day the house or shop in which any licensed dealer shall carry on the sale of spirituous or fermented liquors or intoxicating drugs.—Act. XI., 1849, sec. xvii.

162. Every person holding a license for the sale of spirituous or fermented liquors, or intoxicating drugs, shall keep such license at the house or shop specified in the license, and shall show the license on the demand of any abkary officer, who shall desire to see the same, and any licensed dealer, who shall refuse, or be unable to produce his license, on the demand of any abkary officer, shall be liable to a fine, not exceeding two hundred rupees.—Act XI, 1849, sec. xviii.

163. Any abkary officer may stop and detain any person carrying any spirituous or fermented liquors, or intoxicating drugs, without a pass, or otherwise liable to confiscation under this Act, and may seize the liquors or drugs, with the vessels, packages, and coverings in which the liquors or drugs are found, and the animals and conveyances used in carrying them.—Act XI., 1849, sec. xix.

164. If the collector has good reason to believe, either from information given by any abkary officer or other person, to be taken down in writing, or from his own knowledge, or from the proceedings in any other case, that any spirituous or fermented liquors, or intoxicating drugs, liable to confiscation under this Act, are kept or concealed in any place, the collector, by warrant under his hand, may empower any abkary officer, above the rank of jemadar of peons, between sunrise and sunset, but always in the presence of a constable or other officer of the peace, to enter into every such place, where any such liquors or drugs are suspected to be kept or concealed, and to seize and carry away such liquors or drugs; and, in case of resistance, to break open any door, and to force and remove any other obstacle to such entry, search, seizure, or removal, as aforesaid; and to arrest and detain the owner or occupier of the premises, with all parties whom he suspects to be concerned in the unlawful keeping or concealing of such liquors, or drugs, whom he shall find on the premises. Provided, that where there is ground to suspect that such liquors or drugs are unlawfully concealed in any zenana, the officer charged with the execution of the warrant shall follow, as closely as may be, the rules for the seizure of property so concealed, adopted by the Supreme Court of Judicature at Fort William.—Act XI, 1849, sec. xx.

165. All constables, and other ministerial officers of the peace, are required to help the abkary officers in the due execution of this Act upon notice given, or request made by any such abkary officer: and any officer, who, without lawful excuse, shall refuse or neglect to assist as aforesaid, on being required to do so, shall be liable to the penalty prescribed by paragraph 171 of this Act, for abkary officers conniving at the escape of a person arrested under this Act.—Act XI., 1849, sec. xxi.

166. Whenever any abkary officer, duly authorized under this Act, shall arrest any person, or shall seize any spirituous or fermented liquors, or intoxicating drugs, or shall enter any house or shop for the purpose of searching for such illicit articles, he shall carry the person arrested, with the illicit articles seized, with all convenient despatch, to the collector, and shall, within twenty-four hours thereafter, make a full report to the collector of all the particulars of such arrest, seizure, or search. And the collector, after such further inquiry as he deems necessary, shall forthwith either release the person arrested, or send him in custody to a justice of the peace for the town of Calcutta.—Act XI., 1849, sec. xxii.

167. Every person, who shall maliciously give false information against any person for being engaged in the unlicensed sale of spirituous or fermented liquors, or intoxicating drugs, or for having in his possession, or carrying, or in respect of their being in any house or shop any spirituous or fermented liquors, or intoxicating drugs, in contravention of this Act, shall be liable to a fine, not exceeding five hundred rupees, or to imprisonment in the common gaol for a period not exceeding six months, or to both.—Act XI., 1849, sec. xxiii.

168. Every person who shall obstruct or molest any abkary officer, or any person acting in aid of such officer, in the due execution of this Act, shall be liable to a fine, not exceeding five hundred rupees; and such person shall be further liable, if an affray or breach of the peace shall happen in consequence of his resistance, on conviction of the same before a competent tribunal, to such punishment as is prescribed by law for cases of affray and breach of the peace, in addition to the penalty above prescribed for resistance of process.—Act XI., 1849, sec. xxiv.

169. Any abkary officer who shall delay carrying to the collector any person arrested, or any illicit articles seized under this Act, or who shall neglect to report the particulars of an arrest, seizure, or search, within twenty-four hours thereafter, shall be liable to a fine not exceeding two hundred rupees.—Act XI., 1849, sec. xxv.

170. Any abkary officer who shall vexatiously and unnecessarily seize the goods or chattels of any person, on the pretence of seizing or searching for illicit spirituous or fermented liquors, or intoxicating drugs, or who shall vexatiously and unnecessarily arrest any person, or commit any other excess, not required for the execution of his duty, shall be liable to a fine not exceeding five hundred rupees.—Act XI., 1849, sec. xxvi.

171. Any officer employed in the abkary department, who shall unlawfully release or connive at the escape of any person arrested under this Act, or connive at the sale of spirituous or fermented liquors, or intoxicating drugs, without license, or by any licensed dealer, contrary to the terms of such license, or act in a manner inconsistent with his duty for the purpose of enabling any person to do anything, whereby any of the provisions of this Act may be evaded or broken, or the abkary revenue defrauded, shall be liable to a fine not exceeding five hundred rupees.—Act XI., 1849, sec. xxvii.

172. Any abkary officer who shall ask or take any gratuity, not authorized by any law or order of Government, or of the Board of Revenue, in consideration of doing, or of omitting to do, any act in his official capacity, and any person who shall offer a bribe to any such officer, in order to induce such officer to act in a manner inconsistent with his duty, shall be liable, for every such offence, to a fine not exceeding five hundred rupees.—Act XI., 1849, sec. xxviii.

173. Whenever any goods or chattels shall be seized by an abkary officer as liable to confiscation under this Act, such seizure shall, upon information, exhibited by order of the collector, be heard and determined in a summary way, by any justice of the peace for the town of Calcutta; and such justice shall cause the persons to whom such goods and chattels belong, to be summoned to appear before him, and upon their appearance or default shall examine into the cause of the seizure thereof, and give judgment; and if such judgment shall be for confiscation of the goods or chattels seized, shall issue his warrant to the collector for the sale or disposal thereof, according to such orders as the collector may receive from the Board of Revenue.—Act XI., 1849, sec. xxix.

174. Whenever any goods or chattels shall be seized as aforesaid, and within one calendar month, no person shall appear before the collector to claim the same, the justice shall examine into the cause of the seizure, at a place and time of which notice shall have been given by the collector in the Calcutta Gazette, and give judgment for the confiscation of such of the goods and chattels as, upon such examination, shall appear to him liable to forfeiture; and upon confiscation thereof, shall issue his warrant for the disposal of them, as if the owner had been summoned to attend the said justice.—Act XI., 1849, sec. xxx.

175. All fines leviable under this Act, except under paragraph 182, shall be adjudged by any justice of the peace for the town of Calcutta, and the said justice, upon information exhibited before him by order of the collector, shall forthwith summon the parties accused, and upon their appearance or default, shall examine into the matter, and upon due proof made thereof, by the voluntary confession of the parties, or by the oath or solemn affirmation, in cases wherein a solemn affirmation is receivable by law instead of an oath, of one or more credible witnesses, shall give judgment accordingly; and in default of payment of any fine to which an offender is adjudged, he shall be liable, by order of the said justice, to imprisonment in the common gaol for a period not exceeding six months, or until the fine is sooner paid: and no proceedings shall be taken under this paragraph by any justice of the peace after the expiration of three calendar months from the date of the offence by which the fine was incurred.—Act XI., 1849, sec. xxxi.

176. Whenever any person shall be convicted before any such justice as aforesaid of an offence against this Act, after having been previously convicted of a like offence, he shall be liable, in addition to the penalty attached to such offence, to imprisonment in the common gaol for a period not exceeding six months; and a like punishment of imprisonment, not exceeding six months, shall be incurred, in addition to the punishment which may be inflicted for a first offence, upon every subsequent conviction after the second.—Act XI., 1849, sec. xxxii.

177. One-half of all fines levied from persons convicted of the illicit possession, carrying, or sale of spirituous or fermented liquors, or intoxicating drugs, and of the proceeds from sale of articles confiscated, except opium, and in the case of opium confiscated and declared by the opium examiner at the presidency to be fit for use, a reward of one rupee eight anas for each seer, shall, upon adjudication of the case, be awarded to the officer or officers who apprehended the offender, or seized the illicit articles; and the other half, or in the case of opium as aforesaid, a reward of one rupee eight anas for each seer shall be given to the informer; and, if no fine is realized, the Board of Revenue may grant such reasonable reward, not exceeding the sum of two hundred rupees, as may appear to them fit; and the Board of Revenue may direct, by general order, what class of abkary officers shall receive rewards, and what classes shall have no title to share therein.—Act XI., 1849, sec. xxxiii.

178. All fines levied under this Act, the disposal of which is not specially provided for, shall belong to Government; but the Board of Revenue may grant any portion thereof, not exceeding one-half, as rewards to informers, or as compensation to parties injured by any proceedings under this Act.—Act XI., 1849, sec. xxxiv.

179. No writ of certiorari shall be issued at the suit of any party out of the Supreme Court of Judicature, to supersede, stay, remove, or in anywise affect any information or judicial proceeding before any justice of the peace, in pursuance of this Act; and no judgment thereupon shall be quashed, except for error of law apparent on the face of the judgment.—Act XI., 1849, sec. xxxv.

180. When any penalty or confiscation shall be adjudged by a justice of the peace under this Act, the commissioner of abkary, and in his absence, the Board of Revenue, within one month after judgment given, may call for the proceedings of the case (with which requisition the justice of the peace shall be bound to comply), and, if he or they shall see cause, may direct that the seizure, or any part thereof, be restored, and may remit or mitigate any penalty, and discharge the party.—Act XI., 1849, sec. xxxvi.

181. All actions and prosecutions to be commenced against the collector or any abkary officer, or any person acting in aid of any such officer, for anything done in pursuance of this Act, shall be commenced within three calendar months after the fact committed, and not afterwards; and notice in writing of such action, and of the cause thereof, shall be given to the defendant one calendar month at least before the commencement of the action; and no plaintiff shall recover in any such action, if tender of sufficient amends shall have been made before such action brought, or if after action brought, a sufficient sum of money shall have been paid into court, with costs, by or on behalf of the defendant.—Act XI., 1849, sec. xxxvii.

182. The collector, in respect of the duties to be performed by him, under this Act, shall have power to punish any contempt committed in his presence in open cutcherry by fine, not exceeding two hundred rupees, commutable, if not paid, to imprisonment in the common gaol for a period not exceeding one month: Provided that an appeal from any order passed under this section shall lie to the commissioner of abkary, and in his absence, to the Board of Revenue, and the decision of the commissioner or Board thereon shall be final.—Act XI., 1849, sec. xxxviii.

## MILITARY CANTONMENTS.

183. No spirituous liquors shall be manufactured or sold within the limits of any military cantonment but under licenses from the collectors; nor shall any such licenses be granted by the collectors but with the knowledge and concurrence of the commanding officers.—Reg. X., 1813, sec. xxv., cl. 1.

184. Whenever licenses may be granted, under the preceding rule, for the manufacture or sale of spirituous liquors in any of the cantonments, the distillers and vendors shall be considered to be precisely on the same footing with respect to the duty payable by them, and all other questions connected with the manufacture and sale, as distillers and vendors established in other places.—Reg. X., 1813, sec. xxv., cl. 2.

185. Should the commanding officer of a cantonment be of opinion that any practical inconvenience is experienced from any stills or shops which may have been established in the said cantonment, he shall communicate his sentiments on the subject to the collector, who shall immediately order such stills or shops to be suppressed.—Reg. X., 1813, sec. xxv., cl. 3.

186. Should a commanding officer of a cantonment be of opinion that any inconvenience is experienced from any still or shop established in the vicinity of the said cantonment, he shall state his sentiments to the collector, who shall either order the still or shop in question to be suppressed, or refer the case to the Board of Revenue, who will order the shop to be suppressed or otherwise, or to be removed to a greater distance from the cantonment, as may appear to them, on consideration of all the circumstances of the case, to be proper.—Reg. X., 1813, sec. xxv., cl. 4.

187. The collectors being authorized, under paragraphs 105 to 114, to apprehend persons charged with the illicit sale and manufacture of spirituous liquors, and to issue search-warrants with a view to the prevention of illicit manufacture and vend, it shall be the duty of the commanding officers of cantonments to be careful that no obstruction be given by the people subject to their command to the officers of the collectors in the discharge of the said duties: Provided, however, that the collectors shall apply to the commanding officers, for their assistance, in all cases in which no public inconvenience is likely to arise from that measure, and shall uniformly report to them the result of the search.—Reg. X., 1813, sec. xxv., cl. 5.

188. If within any military cantonment, or within any limits around the same, to which the provisions of this Act shall be extended by an order of Government, to be publicly notified, any person not amenable to articles of war, or any sutler or camp follower, shall knowingly barter, sell, or supply, or offer, or attempt to barter, sell, or supply, any spirituous liquor, wine, or intoxicating drug, to or for the use of any European soldier, or to or for the use of any European or Eurasian, being a camp follower or a soldier's wife, without a written license from the officer commanding at the station, or from some person having sufficient authority from the commanding officer to grant such license, the person so bartering, selling, or supplying, or offering, or attempting to barter, sell, or supply such spirituous liquor, wine, or intoxicating drug as aforesaid, shall be liable, on conviction before a magistrate, to a fine not exceeding fifty rupees, or in the discretion of the magistrate, to imprisonment, with or without hard labour, for any period not exceeding one calendar month.—Act XVIII., 1853, sec. i.

189. If any person convicted of an offence under the preceding rule, shall be convicted under that rule of an offence subsequently committed, he shall be liable to a fine not exceeding one hundred rupees, or to imprisonment, with or without hard labour, for any period not exceeding three calendar months; and in such case any spirituous liquor, wine, or intoxicating drug, within such cantonment, or limits, which at the time of the commission of such subsequent offence shall belong to, or be in the possession of such person, shall without further proof, be deemed to be in the possession of such person, for the purpose of being supplied to European soldiers contrary to the provisions of this Act, and shall be liable to be seized and confiscated.—Act XVIII., 1853, sec. ii.

190. If any camp follower or military pensioner, or the wife or widow of any soldier, camp follower, or military pensioner, shall within such cantonment or limits, remove, convey, or have in his or her possession any quantity of spirituous liquor, or wine, exceeding one seer or quart, without a permit, to be signed by the officer in command, or such other officer as may be appointed by him to grant permits under this Act; every such person shall be liable upon conviction to a fine not exceeding fifty rupees, and for any subsequent offence to a fine not exceeding one hundred rupees, or to imprisonment, with or without hard labour, for any term not exceeding three calendar months.—Act XVIII., 1853, sec. iii.

191. The preceding rule shall not apply to any liquor brought into a cantonment for the private use of any commissioned officer.—Act XVIII., 1853, sec. iv.

192. If any person, subject to the provisions of this Act, shall be found committing any offence contrary thereto, any police officer, authorized under this Act, may immediately, without warrant, arrest such person, and also seize any spirituous liquor, wine, or intoxicating drug, together with any vessel containing the same, and any thing used for the purpose of removing, conveying, or concealing the same, which may be found in his possession, and shall thereupon, without delay, take such person, together with the things so seized, before a magistrate or other officer having jurisdiction to punish the offender.—Act XVIII., 1853, sec. v.

193. Any person, who shall obstruct any police officer in making any arrest, or seizure, under this Act, and any police officer who shall not, without unreasonable delay, take the person, or thing so arrested, or seized, before a magistrate, or other officer having jurisdiction to punish the

offence, shall be liable, on conviction before a magistrate, to a fine not exceeding one hundred rupees.—Act XVIII., 1853, sec. vi.

194. Any police officer, who, under colour of this Act, shall, without probable cause, make any arrest or seizure without a warrant, shall, on conviction before a magistrate, be liable to a fine not exceeding one hundred rupees, which fine or any part of it may be ordered by the magistrate to be paid to the person aggrieved.—Act XVIII., 1853, sec. vii.

195. No police officer shall be competent to act under the provisions of paras 192 of this Act, unless he shall have a general, or special authority so to do, granted to him in writing by the commanding officer or other officer empowered by him to grant the same, or by the officer in the immediate charge of the police.—Act XVIII., 1853, sec. viii.

196. In case of a conviction for any offence under this Act, the convicting magistrate may adjudge any liquor, wine, or intoxicating drug, in respect of which the party shall be convicted, and any other spirituous liquor, wine, or intoxicating drug, which shall be found in his possession at the time of committing the offence, and any vessel containing the same, together with any thing used for the purpose of conveying, removing, or concealing the same, or any part thereof, to be confiscated; and such magistrate may order the whole, or any part or parts of any fine imposed under this Act, to be paid, as soon as the same shall be realized, to the person upon whose information such conviction shall take place, or to the officer who shall have apprehended the offender, or seized any of the goods adjudged to be confiscated.—Act XVIII., 1853, sec. ix.

197. A magistrate may order any thing seized under the provisions of this Act, in respect of which any person shall be charged with an offence, to be detained until the person in whose possession the same shall have been seized shall be convicted, or acquitted of the offence charged. If the person shall be acquitted, the things so seized shall be restored; if he shall be convicted, such of the things only, if any, as shall not be adjudged by a magistrate to be confiscated, shall be restored; the remainder shall be dealt with as confiscated.—Act XVIII., 1853, sec. x.

198. No appeal shall lie from any order or conviction under the provisions of this Act.—Act XVIII., 1853, sec. xi.

199. European British subjects shall be amenable to the jurisdiction of a magistrate for any offence against the provisions of this Act.—Act XVIII., 1853, sec. xii.

200. This Act shall not apply to the sale, or supply of any article for medicinal purposes, by recognized medical practitioners, chemists, or druggists.—Act XVIII., 1853, sec. xiv.

201. In the construction of this Act the word "cantonment" shall include a "fortress, or garrison" or military bazar station; the word "soldier" shall include any non-commissioned officer; the word "magistrate" shall include a joint magistrate, or any person lawfully exercising the powers of a magistrate, or a justice of the peace; the words "spirituous liquor" shall include toddy in a state of fermentation, or after it has been fermented. Words in the singular number shall include the plural, and words denoting the masculine gender shall include the feminine.—Act XVIII., 1853, sec. xv.

202. This Act shall not come into operation before the 1st day of January 1854, and shall not take effect within any limits around a cantonment which shall be specified in any order of Government before the expiration of one month from the date of the notification of such order, and any order for extending the provisions of this Act to any limits around a cantonment may from time to time be varied, altered, or suspended by Government.—Act XVIII., 1853, sec. xvi.

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# APPENDIX.

## No. 1.

FORM of License to be granted to Vendors established at places situated within the limits prescribed for Sudder Distilleries.

"License, No.—, for the sale of spirits at ———, during the year ,——— F. S. or B. S.

"I, A. B., collector of ———, do hereby, under the following conditions, authorize C. D. to open a shop for the retail of spirits at ———:

"1st. All spirits sold at the said shop shall be manufactured within the sudder distillery at ———.

"2nd. The said C. D. shall pay to Government a daily tax of ———, and shall be entitled to pass from the sudder distillery ——— gallons of spirits per diem during the year ———, B. S. or F. S.

"3rd. The said C. D. shall be entitled to pass from the sudder distillery such further quantities of spirits as he may require for consumption in his shop, upon payment of a duty of ——— per gallon.

"4th. A regular pass shall be granted by the collector, on the first day of every month, to the said C. D., to enable him to pass the prescribed quantity of spirits from the distillery.

"5th. Extra passes shall be granted to C. D. on application, the duty being previously paid.

"6th. Any attempt to vend spirits manufactured at any other place than the sudder distillery above described, or to remove spirits from the sudder distillery without a pass or without payment of the established duty, shall subject the said C. D. to the forfeiture of this license, and to the penalties prescribed by Regulation X., 1813, to be inflicted on unlicensed vendors.

"Given under my hand and seal, this —— day of ———, 18—.

"Registered, "A. B., collector."

"No. ——— of ———."

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No. 2.

"Bowannypore shop. "MURKUND SAHA.

"Pass ——— gallons of spirits per diem, from the 1st to the 31st of ———, 18—.

"A. B. Collector.

L S.

"Shop, "Pass,

"No. ———, "No. ———."

To be signed by the serishtadar or head officer of the abkary mehal. On the back of this pass, the darogah of the sudder distillery shall each day attest the issue of the quantity of spirits specified ,and the hour at which it is removed.

No. 3.

EXTRA PASS.—No. ———.

"Bowannypore shop. "MURKUND SAHA.

"No. ———.

"Received Rs. ———.

"Pass —— gallons of spirits this day, the —— of ———, 18—.

"A. B. Collector."

L. S.

To be signed or sealed by the head officer of the abkary department.

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No. 4.

FORM of License to be granted to Persons authorized to manufacture and sell Spirits, at one and the same Place, beyond the Boundaries prescribed for the Sudder Distilleries.

"License, No. ———, for the manufacture and sale of spirits at ———, during the year ———, B. S. or F. S.

"Whereas, by the authority of the Governor-General in Council, I, A. B., collector of the zillah of ———, authorize C. D. to work a still for the manufacture of spirituous liquors at ———, pergunnah ———, during the year ———, F. S. or B. S., it is required of the said C. D., as a condition of his license remaining in force, that he duly and faithfully perform and abide by the following articles:—

"1st. That he pay to Government a daily tax of ——— rupees.

"2nd. That he use only one still, and that such still shall not contain more than fifty seers of eighty tola weight.

"3rd. That he confine the vend of the produce of his still to one shop, to be attached to the building in which the still is erected.

"4th. That he shall not allow any quantity of liquor exceeding one seer (or quart) to be removed from his shop under any pretence whatever.

"5th. That he shall not harbour robbers, thieves, or riotous persons, but, on the contrary, give information to the nearest magistrate or police officer, of any suspected persons who may resort to his shop.

"6th. That he shall not receive any goods or wearing apparel, or property, in barter for liquor.

"7th. That he shall not open his shop before sun-rise, nor keep it open after sun-set, and that he shall not harbour any persons in it during the night.

"8th. That he shall have constantly fixed up on the outer door of his shop, a sign or board, bearing an inscription in the current language of the country to the following effect: 'Licensed Vendor of Spirits.'

"Upon any breach of the above conditions, this license shall be held to be forfeited. All officers of Government are hereby prohibited from imposing or exacting any tax or cess, under any pretence whatever, on the said C. D. on account of the said still, during the aforesaid period, beyond the tax required to be levied from him by the Regulations, and they are also prohibited from molesting or interrupting him in the prosecution of his profession, while he conforms to the above special provisions, and to all other regulations that relate to him.

"Given under my hand and seal, this —— day of ———, 18—.

"Registered ——

"No. ——— of———." "A. B., Collector."

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No. 5.

Form of License to be granted to Persons authorized to manufacture Spirits at one Place and to retail at another, both Places being situated beyond the Boundaries prescribed for the Sudder Distilleries.

"License, No. ———, for the manufacture of spirits at ———, during the year ———, B. S. or F. S. and for the retail at ———, for the same period.

"Whereas, by the authority of the Governor-General in Council, I, A. B., collector of the zillah of ———, authorize C. D. to work a still for the manufacture of spirituous liquors at ———, pergunnah ———, and to establish a shop for retailing the produce thereof at ———, for the year ———, B. S. or F. S. It is required of the said C. D. as a condition of his license remaining in force, that he duly and faithfully perform and abide by the following articles:—

"1st. That he pay to Government a daily tax of ——— rupees.

"2nd. That he use only one still, to be worked at ———, and that such still shall not contain more than fifty seers of eighty tola weight.

"3rd. That he confine the vend of the produce of his still to one shop in the town or village of ———, the particular situation of which will be prescribed to him, and that he shall not permit any spirits which may be manufactured by him to be sold or disposed of at any other place, without an express license for that purpose.

"4th. That he shall not allow any quantity of liquor exceeding one seer (or quart) to be removed from his shop, under any pretence whatever.

"5th. That he shall not harbour robbers, thieves, or riotous persons, but, on the contrary, give information to the nearest magistrate or police officer of any suspected persons who may resort to his shop.

"6th. That he shall not receive any goods or wearing apparel, or property, in barter for liquor.

"7th. That he shall not open his shop before sunrise, nor keep it open after sunset, and that he shall not harbour any persons in it during the night.

"8th. That he shall have constantly fixed up on the outer door of his shop a sign or board, bearing an inscription in the current language of the country to the following effect: 'Licensed Vendor of Spirits.'

"Upon any breach of the above conditions, this license shall be held to be forfeited. All officers of Government are hereby prohibited from imposing or exacting any tax or cess, under any pretence whatever, on the said C. D., on account of the said still, during the aforesaid period, beyond the tax required to be levied from him by the Regulations; and they are also prohibited

from molesting or interrupting him in the prosecution of his profession, while he conforms to the above special provisions and to all other regulations that relate to him.

"Given under my hand and seal, this —— day of ——— 18—.

"Registered——

"No. ——— of —— " "A. B., Collector."

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No. 6.

FORM of License to be granted to Persons authorized to vend Taury, Putchwye, and intoxicating Drugs [including Opium].

"License, No. ———, for the sale of [drugs, taury, or putchwye] at ———, during the "year ———, B. S. or F. S.

"Whereas, by the authority of the Governor-General in Council, I, A. B., collector of the zillah of ———, authorize C. D. to open a shop for the sale of [drugs, taury, or putchwye], in the city [town or village] of ——— in ———, for the year B. S. or F. S. It is required of him, as a condition of this license remaining in force, that he duly and faithfully perform and abide by the following articles:—

"1st. That he pay to Government a daily tax of ——— rupees.

"2ndly. That he confine his sale of [taury, drugs, or putchwye] to the shop for which his license is granted, and on no account sell any [drugs, taury, or putchwye] without the limits of the above city [town or village], or establish a second shop within such limits without taking out another license for the same

"3rdly. That he prevent gaming and disorder within his shop.

"4thly. That he do not harbour thieves or riotous persons, but, on the contrary, give information to the nearest magistrate or police officer of any suspected persons who may resort to his shop.

"5thly. That he do not receive any goods or wearing apparel, or other property, in barter, for [drugs, taury, or putchwye].

"6thly. That he do not open his shop before sunrise, nor keep it open after sunset, and that he do not harbour any person in it during the night.

"7thly. That he will have constantly fixed up on the outer door of his shop a sign or board, bearing an inscription to the following effect, in the current language of the country: 'Licensed Vendor of [Drugs, Taury, or Putchwye.]'

"Upon any breach of the above condition, this license shall be considered forfeited. All officers of Government are hereby prohibited from imposing or exacting any tax or cess, under any pretence whatever, on the said C. D., on account of the said shop during the aforesaid period, beyond the tax required to be levied by the Regulations, and they are also prohibited from molesting or interrupting him in the prosecution of his profession while he conforms to the above special provisions, and to all other regulations that relate to him.

"Given under my hand and seal, this —— day of ——— 18—.

"Registered ——— "A. B., Collector."

"No. ——— of —— "

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## SAYER.

### 1.—*Rules for the Resumption of the Sayer, passed on the 11th June,* 1790.

*First. Article 1st.* No landholder, or other person, of whatever description, shall be allowed to collect, in future, any tax or duty of any denomination; but all taxes and duties shall be hereafter levied, on the part of Government, by officers duly appointed for that purpose, under such Regulations as may be passed for their guidance.

*Second. 2nd.* No monthly or annual payments now made, or which may be hereafter made, for the use of land, or houses, shops, or other buildings erected thereon, being clearly of the nature of rents and not duties or taxes, are to be understood to be within this prohibition, but all such rents are to be enjoyed by the proprietors entitled thereto as heretofore.

*Third. 3rd.* The collectors, in resuming gunges, hauts, and bazaars, as already ordered, are to attend carefully to the distinctions contained in the two preceding articles, resuming universally whatever collections come within the first, and avoiding generally any resumption of the rents described in the second.

*Fourth. 4th.* The collectors are to appoint competent persons to the management of the several gunges, hauts, and bazaars, within their respective jurisdictions, with orders to keep the most particular accounts of their receipts during the current year, distinguishing, as far as possible, the articles on which the duties may be collected by them, as well as the nature and rate of each, and with the following general instructions, in addition to such as they may from local circumstances think necessary. To discontinue all rahdarry, chelunta, and other collections of every denomination prohibited by the orders of Government. To discontinue all monopolies and exclusive privileges for the manufacture or sale of particular articles, and establish in lieu of them, with the sanction of the collectors, a moderate duty on such articles, to be levied at the time of manufacture or sale. To collect all existing duties as far as may be compatible with these principles, according to their present rates, to the end of the current year.

*Fifth. 5th.* At the end of the current year, the collectors are to transmit abstracts of the accounts delivered by the several agents employed by them in the collection of duties, with such remarks as may be necessary for full information of the nature of the several articles of collection, and specific propositions for the regulation thereof in future.

*Sixth. 6th.* The collectors are to propose such establishments as they may think necessary for the collection of the duties within their respective districts for the current year, observing therein the greatest possible attention to economy, and that such establishments are to be decided on by the Board of Revenue.

*Seventh. 7th.* The gunge, haut, bazaar, and other duties (the abkary only excepted) which may be collected during the current year on la-khiraj land, and of which no part has hitherto been received by Government, are, after deducting the amount of the establishment approved by the Board of Revenue, to be paid monthly to the persons who would have been entitled to receive the same, in case the collection had not been taken into the hands of Government on receipts for the amount so paid.

*Eighth. 8th.* The land revenue is to be adjusted, according to the rules already prescribed for the decennial settlement, on the assets of the malguzarry land, exclusive of the duties resumed, and that of the gunge, haut, bazaar, and other duties (the abkary excepted) which may be collected during the current year on malguzarry land, or which have hitherto been a source of revenue to Government, after deducting the amount of the approved establishment, one-tenth is to be paid to the proprietors of the land wherein the duties shall be collected, and the remaining nine-tenths are to be carried to the credit of Government. Disputed claims to this allowance are to be decided on in the first instance by the collectors, subject to an appeal to the Board of Revenue within the period prescribed for appeal by the existing Regulations.

*Ninth. 9th.* It shall be notified to all persons who have hitherto exercised the privilege of collecting gunge, bazaar, haut, and other duties, whether on la-khiraj or malguzarry land, that they are at liberty to appoint agents, on their parts, to keep counterpart accounts of the collections made by the officers of Government during the current year; and that, in the event of their appointing such, the collectors are to require the officers employed by them to obtain the joint signature of these agents to the several accounts transmitted by them.

*Tenth. 10th.* The holders of all gunges, bazaars, hauts, &c. are informed, that it is the intention of Government to make them an equitable compensation hereafter, adequate to the profit they were entitled to from all duties collected by them with due authority, or by usage commencing previous to the Company's acquisition of the dewanny; and they are required, in order to enable Government to determine on the compensation to be made to them, to exhibit before the collectors,

within three months from the date of a public notice to be issued to that effect, the titles by which they have levied the gunge, bazaar, haut and other duties collected by them respectively, or proof of their having established the same before the Company acquired the dewanny.

*Eleventh.* 11*th.* The collectors, on exhibition of the vouchers and proofs offered in pursuance of these Regulations, or as soon afterwards as circumstances may admit, are to enter into a full examination of the same, and to transmit their proceedings at large, with a summary, to the Board of Revenue, at the close of the current year, together with the abstracts required in the fifth article, adding, in every instance, their opinion how far the right of collection appears to be established, or otherwise. The Board of Revenue, on receipt of these reports, are to forward the same, with their opinion on each case, after requiring any further information they may think necessary, to the Governor-General in Council, who will then determine on the right of the several parties to a compensation, as well as on the mode of making the same.

*Twelfth.* 12*th.* All persons exacting duties contrary to these Regulations, whether principals or accessories, are declared liable to prosecution in the Courts of Dewanny Adawlut, the judges of which are to hear and determine the cause within ten days after its institution, and on proof of the exaction are to decree heavy damages, with all costs, to the party injured, according to the circumstances of the offenders, and enforce the payment thereof by the customary process.

*Thirteenth.* 13*th.* Where persons may be in receipt of pensions for charitable or religious purposes, from the gunge, haut, or bazaar duties resumed, the collectors are to transmit a list thereof, with a report of the origin and amount of such pensions, and state how far the persons receiving the same are objects of charity, who would be distressed by an immediate discontinuation of the allowances to them respectively.

*Fourteenth.* 14*th.* The rules are not to extend to gunges, bazaars, and hauts, within the limits of the town of Calcutta.

*Fifteenth.* 15*th.* The collectors are to give the strictest attention to the due enforcement of these orders, which, with Persian and Bengal translations, shall be printed and circulated throughout the several districts for general information.—Reg. XXVII., 1793, sec. ii.

### 2.—*Rule passed on the* 23*rd June*, 1790.

The allowances which may be fixed for the officers appointed on the part of Government to collect the duties in the gunges, hauts, and bazaars, in the malguzarry and rent-free lands, for the current year, are to be paid by Government, and not from the collections of the gunges, hauts, and bazaars, as directed by the seventh and eighth articles of the Regulations of the 11th June, 1790, and the collectors are accordingly directed to pay the amount of the gross, instead of the neat collections, to the holders of such gunges, bazaars, and hauts.—Reg. XXVII., 1793, sec. iii.

### 3.—*Rule for the Abolition of the Sayer, passed on the* 28*th July*, 1790.

The privilege of imposing and collecting internal duties has been resumed from the landholders, and taken exclusively into the hands of Government for the purpose of reforming abuses in these collections, and thereby affording benefit to the commerce of the country, as well as general ease to its inhabitants. For the more effectual attainment of these objects, the Governor-General in Council has now resolved that all duties, taxes, and other collections coming under the denomination of sayer (with the exception of the Government and Calcutta customs [*the duties levied on pilgrims at Gya and other places of pilgrimage*],* the abkary or tax on spirituous liquors, which is to be collected on account of Government agreeably to former orders, the collections made in the gunges, bazaars, and hauts, situated within the limits of Calcutta, and such collections as are confirmed to the landholders, and the holders of gunges, bazaars, and hauts, by the published resolutions of the 11th June, 1790, namely, rent paid for the use of land, or for houses, shops, or other buildings erected thereon, or for orchards, pasture ground, or fisheries, sometimes included in the sayer, under the denomination of phulkur, bunkur, and julkur, whether made by Europeans or natives, either on their own or the public account, in the gunges, bazaars, hauts, or other places within the provinces, be forthwith abolished, and that the compensations to be made in consequence be regulated by an average of the neat produce stated in the past accounts, for as many years as they can be procured, not exceeding ten (excluding therefrom such collections as have been prohibited by Government), and be adjusted, with regard to the collections in malguzarry and la-khiraj lands respectively, according to the principles already laid down in the resolutions of the 11th June, 1790. The collectors have accordingly been required to withdraw their officers from the gunges, bazaars, and hauts, and to transmit the accounts necessary for adjusting the compensation without delay, together with the reports before required from them on the titles by which the duties have been hitherto collected by

* The taxes on pilgrims were abolished by Act X., 1840.

the several persons levying them. At the same time, the Governor-General in Council conceiving there may be proprietors of petty gunges, bazaars, and hauts, in the la-khiraj lands, whose subsistence has been chiefly drawn from the collections now abolished, and who may be subjected to distress or inconvenience, unless some provision be made for them during the period which may elapse previous to the adjustment of the compensation to be allowed them, has instructed the collectors, on proof of the situation of persons so circumstanced, to make them such monthly allowance as may appear advisable, to be deducted from the amount of the compensation to which they may finally appear entitled; provided that, in no case, the monthly allowance so given exceed the estimated monthly neat produce of the duties hitherto received by the parties respectively.—Reg. XXVII., 1793, sec. iv.

4.—*Rule passed on the 6th August*, 1790.

*First.* The proprietary right in the ground on which hauts and bazaars are held is to continue vested in the landholders, but the public are to have the free use of it. The rules passed on the 28th July, 1790, extending to the abolition of all collections heretofore made, under the head of tehbazaree or other denominations, from persons exposing their goods for sale in the gunges, bazaars, and hauts, under temporary stalls and sheds, or in the open streets, and as the landholders are to receive a compensation for these collections, they can have no right, whilst such compensation is continued to them, either to appropriate the ground for the temporary use of which such collections were made to any other purpose, or to levy any exactions whatever from the persons who may in future expose their goods thereon for sale as heretofore; the ground on which hauts and bazaars are now held is accordingly to be continued to be appropriated to this purpose, free of all charge to the vendors.

*Second.* The above rule is not to preclude the landholders from receiving the monthly or annual rent arising from permanent shops, or other buildings, the collection of which is confirmed to them by the rules of the 11th June, 1790.—Reg. XXVII., 1793, sec. v.

5.—*Rules passed on the 8th April*, 1791.

*First.* The amount of the compensation to be given to the lakheraj holders of the sayer abolished after a determination on their right thereto, in the mode directed by the Regulations of the 11th June, 1790, shall be paid in money, or in bonds bearing interest at the rate of twelve per cent. per annum, to be paid in quarterly proportions by the collector of the district in which the gunge, haut, or bazaar yielding the sayer abolished may be situated, until it shall suit the convenience of Government to pay off the principal, the amount of which is to be regulated upon this principle, that the annual interest be equal to the neat annual profit derived from the sayer abolished.

*Second.* The amount of the compensation to be given to the malguzarry holders of the sayer abolished, after the like determination on their right thereto, is to be provided to such of them as may engage for the revenue of their own lands, by granting to them an abatement of jumma equal to the full amount of their neat collections on account of the sayer abolished, which will include their one-tenth profit for which the compensation is ordered; and to those whose lands may now or hereafter be let in farm, by stipulating with the farmers for the payment of the amount of the compensation in addition to the jumma of Government; for securing which payment to the malguzars, a certificate is to be given to each of them, under the seal and signature of the Board of Revenue, declaring the annual neat amount of their sayer abolished, and their title to one-tenth thereof as their compensation, receivable in the manner herein stated.—Reg. XXVII., 1793, sec. vi.

6.—*Rule passed on the 15th April*, 1791.

*First.* Many lands having already been let in farm in Burdwan, and in other parts of Bengal, as well as in Behar, for ten years, and as the farmers of such lands could not now be made answerable for the amount of the sayer compensation to the proprietors in addition to the jumma of Government, without an equivalent deduction from the latter; and further, as it will be for the benefit of the proprietors, without any disadvan tage to Government (since every farmer stipulating for the payment of the compensation would probably reduce his offers for the revenue in an equal proportion), to declare the compensation of dispossessed landholders in general payable by Government, instead of the farmers, as determined by the rule passed on the 8th April, 1791; the Regulation of the 8th April, 1791, is accordingly modified as follows:

*Second.* The amount of the compensation to be given to the holders of the malguzarry sayer abolished, after a determination on their right thereto, in the mode directed by the resolutions of

the Governor-General in Council of the 11th June, 1790, is to be provided to such of them as may engage with Government for the revenue of their own lands, by granting to them an abatement of jumma equal to the full amount of their former neat collections from the sayer abolished, including their one-tenth profit for which the compensation is ordered; and to those whose lands may now or hereafter be let in farm or held khas, by the annual payment of the amount of such compensation on the part of Government, to be made in quarterly proportions by the collector of the district in which the gunge, haut, or bazaar, yielding the sayer abolished, may be situated: for securing which payment to the malguzarry holders entitled thereto, a certificate is to be given to each of them, under the seal and signature of the Board of Revenue, declaring the neat annual amount of their sayer abolished, and their title to one-tenth thereof as their compensation, receivable in the manner herein stated, until it can be provided by an abatement of jumma on the settlement of their land being made with them, in which case they will be no longer entitled to the payment specified.—Reg. XXVII., 1793, sec. vii.

7.—*Rule passed on the 24th June*, 1791.

Doubts having arisen whether, under the rule passed on the 15th April, 1791, the one-tenth compensation is to be made to disqualified landholders by a reduction of jumma or by a money payment from Government, their lands being nominally held khas, though really managed for the benefit of the proprietors (any surplus collection above the fixed revenue being applied to their benefit), it is declared, that the compensation in these instances is to be made in like manner as if the settlement were made with the proprietors, viz., by an abatement of the revenue assessed upon their lands equal to the full amount of the former neat collections of the sayer resumed or abolished, including their one-tenth for which the compensation is ordered; or, in cases where a new assessment of their lands may be made on consideration of the land assets only, by an abatement of such assessment equal to the amount of the one-tenth compensation due to them.—Reg. XXVII., 1793, sec. viii.

8.—*Rule passed on the 23rd December*, 1791.

The Board of Revenue are to grant certificates, under their seal and signature, to the proprietors of la-khiraj gunges, bazaars, and hauts, for the amount of the compensations to which they may be entitled.—Reg. XXVII., 1793, sec. ix.

9.—*Rule passed on the 20th April*, 1792.

*First.* The following are to be the forms of the certificates directed to be granted to the proprietors of la-khiraj and malguzarry gunges, bazaars, and hauts:

*Second.* "This is to certify that A, inhabitant of B, in the district of C, having proved his right, as required by the 10th article of the Regulations passed by the Governor-General in Council, on the 11th June, 1790, to compensation account the sayer collections formerly made by him in the rent-free gunge, haut, or bazaar, denominated ———, in the district of ———, but since prohibited by Government, he is, agreeably to the orders of the Governor-General in Council of the ———, and ———, entitled to receive on this account, in equal quarterly proportions, from the collector of ———, the sum of ———, being the amount of his neat annual collections from the gunge, haut, or bazaar, aforesaid, this payment to commence from the period of the above gunge, haut or bazaar, having been resumed, in conformity to the above-mentioned orders of Government, of the 11th June, 1790, provided no part thereof has yet been received. It is to be understood, that the payment of this compensation by the collector, in the manner aforesaid, is to continue no longer than until it shall please the Governor-General in Council to determine on any other mode of making the same."

*Third.* "This is to certify, that A, zemindar or talookdar of B, in the district or soubah of C, whose estate is now held khas or let in farm, having proved his right, as required by the 10th article of the Regulations of the Governor-General in Council, of the 11th June, 1790, to compensation account the sayer collections formerly made by him in the malguzarry gunge, haut, or bazaar, denominated ———, in the district of ———, but since prohibited by Government, he is, agreeably to the orders of the Governor-General in Council of the ———, and ———, entitled to receive on this account, in equal quarterly proportions, from the collector of ———, the annual sum of rupees ———, being the one-tenth proportion of rupees ———, the nea annual amount of his sayer collections from the gunge, haut, or bazaar, aforesaid, this payment to commence from the period of the above gunge, haut, or bazaar, having been resumed, in conformity to the above-mentioned orders of Government of the 11th June, 1790, provided no part thereof has yet been received. It is to be understood, that the payment of the above-

mentioned compensation by the collector is to continue no longer than until it can be provided for by an adequate abatement of jumma on the settlement of the lands of the bearer of this certificate being made with him or his heirs."

*Fourth.* The case of the proprietor of Govind-gunge being of a special nature, the following certificate is to be granted to him :

"This is to certify, that Rada Govind Sing having proved his right, as required by the 10th Article of the Regulations of the Governor-General in Council, of the 11th June, 1790, to compensation account the sayer collections formerly made by him in the gunge denominated Govind-gunge, in the district of Nuddea, but since prohibited by Government, he is, agreeably to the orders of the Governor-General in Council of the 3rd February, 1792, entitled to receive on this account, in equal quarterly proportions, from the collector of the district above mentioned, the sum of Rupees 3,467. 1. 17. 3, being the amount of his remaining neat annual collections from the haut or gunge aforesaid, after deducting the sum of, Rupees 100, the Revenue of Government; this payment to commence from the period of the above gunge having been resumed, in conformity to the orders of Government of the 11th June, above mentioned, provided no part thereof has yet been received. It is to be understood, that the payment of this compensation by the collector in the manner aforesaid is to continue no longer than until it shall please the Governor-General in Council to determine on any other mode of making the same."—Reg. XXVII., 1793, sec. x.

10.—*Rule passed on the 27th April,* 1792.

Persons exacting taxes or duties of any denomination, contrary to the sayer Regulations of the 11th June, 1790, whether as principals or accessories, having by the 12th article of the Regulations of that date been declared liable to prosecution in the Courts of Dewanny Adawlut, the judges of the said courts are required to receive all plaints preferred on account of such exactions, to hear and determine the same within ten days from the date of filing the plaint, or as soon afterwards as the attendance of the necessary evidence may admit, and on proof to decree a refund of the amount exacted, with damages equal to double the amount, besides all necessary costs incurred by the plaintiff in the prosecution, as well as a heavy fine to Government, proportionate to the circumstances of the offender, which decree shall be enforced by them by the process prescribed in other cases; and if the property of the offender, which shall be applied in the first instance to make good the damages and costs adjudged to the party injured, shall be in any instance insufficient to make good the fine to Government, the courts may order the fine to be commuted to imprisonment for such period as, on consideration of the case, may appear to them adequate to the offence.—Reg. XXVII., 1793, sec. xi.

11.—*Rule passed on the 1st May,* 1793.

In the event of any deductions or compensations on account of the abolition of the sayer remaining to be adjusted, the adjustment of them is to be left to the collectors, under the superintendence of the Board of Revenue, and subject to the final confirmation of the Governor-General in Council under this Regulation, and the Courts of Judicature are not to take cognizance of any claims regarding such deductions or compensations that have been or may remain to be adjusted. But in cases in which the compensation on account of the abolition of the sayer, either in lands paying revenue to Government or exempted from the payment of such revenue, shall have been finally adjusted with the sanction of the Governor-General in Council, and payment of the amount which may be due under such adjustment shall be withheld from the person entitled thereto, the Courts of Dewanny Adawlut may take cognizance of any suit that may be preferred to them against the officer withholding the same, for obtaining payment of the amount. If the payment shall have been withheld, pursuant to orders from the Governor-General in Council or the Board of Revenue, the judge, previous to proceeding to the trial of the suit, is to forward the petition of the complainant to the Governor-General in Council, in the same manner as is directed with regard to the cases specified in Section XI., Regulation III., 1793, that if it shall appear to him proper so to do, he may afford redress to the party without bringing the suit to a trial. Suits instituted against Government under this section, and which may be brought to a trial, are to be defended by the collector, who is to commit the pleading of the cause to the vakeel of Government; and in the event of Government being cast, or of the collector being dissatisfied with the decision, he is to report the circumstances to the Board of Revenue, that an appeal may be preferred against the decision, if deemed advisable.

12.—*Rule passed on the 14th June,* 1811.

No claims to compensation on account of the abolition of the sayer, which shall not have been preferred to the proper authority previously to the promulgation of this Regulation, shall be received or admitted.—Reg. VI., 1811, sec. ii.

## BENARES.

13. In the settlement for the Fusly year 1195, it was stipulated with the amils, by a clause in their kabooliats, that they should relinquish the collection of all tolls and duties on the transportation of grain, and other articles of the interior trade of the province, which they before collected with the land revenue, under the penalty of being subject to a fine equal to treble the amount of every sum so levied.—Reg. IV., 1795, sec. ii.

14. On the 26th December, 1787, the Governor-General in Council ordered that the zemindary duties, and all other collections on merchandize, excepting those authorized by Government, should be formally abolished, and penalties were prescribed for such persons as might be convicted of levying any exaction whatever on the property of the merchants, contrary to the spirit of this order.—Reg. IV., 1795, sec. iii.

15. It was, in consequence, ordered by the thirteenth article of the custom-house regulations of the 29th March, 1788, and which were in force from the 1st April following, that no duties of any kind or denomination should be collected in any part of the country, excepting at the four principal custom-houses of Benares, Ghazeepore, Juanpore, and Mirzapore, nor upon the transportation of any goods produced or manufactured in one part of the country and sold or consumed in another (with the exception of the goods sold which might be afterwards exported), and that any person levying duties or exactions, under whatever denomination, on such goods, in opposition to this prohibition, should be liable to a fine equal to three times the amount received; and as an encouragement to persons so aggrieved to prefer their complaints to the judge of the nearest Court of Adawlut, who was bound to render them speedy and effectual justice, the whole of the fine was directed to be paid to the party from whom the exactions might be made.—Reg. IV., 1795, sec. iv.

16. The settlement for 1196 (commencing with September, 1788) having been formed on the kanongoes' estimates of the mal and abwab, or land revenue only, without including the sayer collections before levied by the amils and landholders, which had been prohibited in the preceding year, a clause was inserted in the engagements of the amils, reciting that all the sayer-jehat, or sayer collections, and the duties on the transportation of merchandize, having from the preceding year, 1195, Fusly, been prohibited by Government, they were neither themselves to levy, nor to allow any other person to levy, any of those articles of collection, under the penalty of paying a fine equal to treble the amount received; and they were furnished with forms of cabooleats containing clauses to a similar effect, to be taken by them from their under-renters, village zemindars, and farmers.—Reg. IV., 1795, sec. v.

17. On the conclusion of the permanent settlement with the zemindars and farmers of the talooks and villages in 1197, they entered into kabooliats or engagements, in which it was stipulated, that as all the sayer-jehat, and rahdary duties and exactions, had been abolished from the Fusly year 1195, they were not to make any collections on these accounts, under the penalty of paying treble the amount exacted, in the same manner as had been stipulated with the amils in the preceding years.—Reg. IV., 1795, sec. vi.

18. At the conclusion of this permanent settlement, the amils also (who were appointed to collect the land revenue payable according to the settlement) entered into a new engagement with Government, by which it was stipulated, that as all gunge, rahdary, and sayer collections, had been abolished from 1195, Fusly, they were not to collect, receive, or suffer to be collected or received, any thing on these accounts, under the prescribed penalty of paying treble the amount so exacted.—Reg. IV., 1795, sec. vii.

19. The prohibitions contained in the preceding rules are to be strictly attended to, and the whole of the penalty recoverable on every breach of them is to be paid to the party from whom the illegal exactions may be made, on his proving them in a Court of Judicature.—Reg. IV., 1795, sec. viii.

20. It being of importance that merchants and others, from whom any such illegal exactions may be made, should obtain the most speedy redress, the judges of the several courts are required to be at all times ready to receive and hear complaints of such exactions, in preference to all other suits, so that the party injured may experience the least possible delay in obtaining a decision.—Reg. IV., 1795, sec. ix.

21. As it may happen that persons from whom such illegal exactions may occasionally be made by zemindars or others, may omit to prosecute the offender in a Court of Justice, and it being essential to the protection of the trade of the country that every means should be adopted for preventing such undue collections, the darogahs of each station are to be careful to transmit to the collector information of all unauthorized chokies stationed for the collection of duties, that may at any time be attempted to be established by any zemindar, farmer, or other person or persons, for the collection of rahdary, or gunge, or other duties or exactions; and if the party thus offending

shall not immediately withdraw and abolish the choky so established, as well as pay to the collector the amount that he or his people may have levied (which is to be restored to the party of parties from whom it may have been exacted), the collector is to cause a prosecution to be instituted against such zemindar, farmer, or other person so offending, both for the removal of the choky and for the recovery of the prescribed penalties.—Reg. IV., 1795, sec. x.

## CEDED AND CONQUERED PROVINCES AND BUNDLECUND.

NOTE.—*The Sayer duties in these provinces were abolished by Section iv. & v. Reg. xi., 1804, which Regulation was rescinded by Sec. ii., Reg. IX., 1810; but Sec. iii. of that Regulation provided as follows.*

22. All duties levied under any denomination whatever, which constitute a tax on the transit, export, or import of goods of any description, through, from, or into the provinces subject to the presidency of Fort William, or the cities or towns therein (with the exception of the city of Delhi and the circumjacent territory, to which the Regulations of the British Government have not been extended), not authorized by this or any other Regulation which may be passed and published in the manner prescribed by Regulation XLI., 1793, are hereby declared to be abolished.—Reg. IX., 1810, sec. iii.

## CUTTACK.

23. The settlement of the land revenue of the zillah of Cuttack having been ordered to be made with the exclusion of all sayer duties, all duties of that description are hereby abolished in the said zillah; with the exception of the tax on the sale and consumption of spirituous liquors and intoxicating drugs [*and the duties levied from pilgrims at Juggernauth**]: and the rules contained in Regulation XXVII., 1793, for preventing the collection of any chilunta, rahdary, or other duties, by the zemindars, talookdars, farmers, and other holders of land in the province of Bengal, are hereby declared to be in force in the zillah of Cuttack. It is also hereby declared, that in conformity to the spirit and principle of Clause Tenth of Section II., and the rules contained in Section VI., Regulation XXVII., 1793, it is the intention of Government to grant adequate compensations to all persons who derived advantages from the late sayer duties under competent authority from the Government of Berar, or in conformity to long and established usage.—Reg. XII., 1805, sec. xxxi.

## GENERAL RULE.

24. The rules relative to the abolition of sayer duties, and the provision contained in Section XXXIX., Regulation IX., 1810, are not and shall not be held to be applicable to any item of sewaee collections or cess levied by malguzars and others according to ancient custom, which has been or shall be sanctioned by a collector or other superior revenue authority, not being a tax on the transport, export, or import of goods or merchandize, or other tax or duty specifically prohibited: but after the settlement of any village or mehaul shall have been made in the manner specified in Section IX., Regulation VII., 1822, the rules and provisions aforesaid shall be applicable to all cesses and collections, not sanctioned in the manner specified in that section.—Reg. IX., 1825, sec. ix.

* The taxes on pilgrims were abolished by Act X., 1840.

# OPIUM.

## TABLE OF ENACTMENTS.

| Original Regulation or Act. | Paras. in Consolidation. | REMARKS |
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| 1793. XXXI. | | |
| x. cls. 4 to 10 | 25 to 31 | |
| 1816. XIII. | | |
| ii. | | Rescissions, omitted. |
| iii. to xxv. | 1 to 23 | |
| xxvi. | 24 | Rules of sec. x., Reg. XXXI. 1793, therein referred to, added. |
| xxvii. to xxx. | 32 to 35 | |
| xxxi. | 36 | Modifications of sec. xviii., Reg. VII., 1824, introduced. |
| xxxii., xxxiii. | 38, 39 | |
| xxxiv. | 40 | Modifications of cl. 2, sec. xviii., Reg. VII., 1824, introduced. |
| xxxv. to xxxix. | 42 to 46 | Sec. ii., Reg. XI., 1818, added to sec. xxxix. |
| xl., xli. | 50, 51 | Modifications of sec. xvii., Reg. VIII., 1824, introduced into sec. xli. |
| xlii. | 52 | Omitted, with exception of last three lines, under cl. 6, sec. xviii., Reg. VII., 1824. |
| xliii. to xlv. | 53 to 55 | Cl. 2, sec. ii. Reg. XI., 1818, introduced into sec. xlv. |
| xlvi. to xlix. | 59 to 62 | |
| l. to lii. | | Omitted, superseded by secs. xx. and xxi., Reg. VII., 1824. |
| liii. to lxxv. | 71 to 93 | |
| lxxvi. | 95 | Modifications from cl. 2, sec. iii., Reg. XI., 1818, introduced. |
| lxxvii. to lxxx. | 99 to 101 | |
| lxxxi. to xc. | 103 to 112 | |
| xci. | 113 | Modifications from sec. xxii., Reg. VII., 1824, introduced. |
| xcii. to xciv. | 114 to 116 | |
| xcv. to xcviii. | 119 to 122 | Modifications from cl. 2, sec. xix., Reg. VII., 1824, introduced into sec. xcvi. |
| 1816. XVII. | | |
| ii. | 123 | Modified by Schedules of Act XIV., 1836, and Act V., 1849. |
| iii. to v. | 124 to 126 | |
| 1818. XI. | | |
| ii. cl. 1. | 46 | Incorporated with sec. xxxix., Reg. XIII., 1816. |
| ii. cl. 2, 3, 4. | 55 to 57 | Incorporated with sec. xlv., Reg. XIII., 1816. |
| iii. | 94 to 97 | |
| iv. 1. | | Omitted, as superseded by secs. xx. and xxi., Reg. VII., 1824. |
| iv. 2. | 70 | |
| 1824. VII. | | |
| xvii. | 51 | Incorporated with sec. xli., Reg. XIII., 1816. |
| xviii. 1. | 37 | |
| xviii. 2 & 3. | 40, 41 | |
| 4. | 36 | Incorporated with sec. xxxi., Reg. XIII., 1816. |
| 5. | 58 | |
| 6. | 52 | Part of sec. xlii., Reg. XIII., 1816, added. |
| 7 to 9. | 47 to 49 | |
| xix. 1. | 102 | |
| xix. 2. | 120 | Incorporated with sec. xcvi., Reg. XIII., 1816. |
| xx., xxi. | 63 to 69 | |
| xxii. | 113 | Incorporated with sec. xci., Reg. XIII., 1816. |
| xxiii. | 117, 118 | |
| xxiv. | 127 to 130 | |
| 1826. VIII. | 63, 64 | Incorporated with secs. xx. and xxi., Reg. VII., 1824. |

# OPIUM.

1. The cultivation of the poppy and manufacture of opium within any of the provinces dependent on the presidency of Fort William, excepting on account of Government, or with their sanction, are hereby prohibited.—Reg. XIII., 1816, sec. iii.

2. The importation of opium, the produce or manufacture of the terrritories of the Nawaub Vizier, the Mahratta territories, or of any foreign country, into the provinces dependent on the presidency of Fort William, or any of them, is hereby prohibited.—Reg. XIII., 1816, sec. iv.

3. The superintendence of the provision of opium shall, as heretofore, be entrusted to agents, or to such other officers, being covenanted servants of the Company, as the Governor-General in Council shall appoint to the said duty.—Reg. XIII., 1816, sec. v.

4. In addition to the agencies already constituted and existing in the provinces of Behar and Benares, an agency shall be established at Rungpore, within such local limits as the Governor-General in Council may from time to time direct, for the provision of opium, to be reserved exclusively for retail sale and consumption within the provinces immediately dependent on the presidency of Fort William, under the rules hereinafter prescribed.—Reg. XIII., 1816, sec. vi.

5. The rules contained in this Regulation respecting the functions, duties, and authority of agents for the provision of opium, are to be considered equally applicable to their deputies in charge of subordinate establishments, or to any other person, being a covenanted servant of the Company, and entrusted with the superintendence of the provision of opium.—Reg. XIII., 1816, sec. vii.

6. Every person who may be appointed an agent for the provision of opium on account of Government, or a deputy or an assistant to such agent, previously to entering on the execution of the duties of his office, shall take and subscribe the following oath before the Governor-General in Council, or any person whom he may commission to administer it.

"I, A. B., appointed to the office of swear, that I will render true and faithful accounts of the expenditure of the sums which may be advanced to me, and of the opium produced, whenever required; and that I will not, at any time during the period of my holding the said office, have any concern in opium, or derive, directly or indirectly, any profit from my situation, excepting such as the orders of Government do or may authorize me to receive, or knowingly suffer any of my officers or dependents to derive any advantages or profits, but such as shall be duly allowed." "So help me God."—Reg. XIII., 1816, sec. viii.

7. The agents employed by Government in the provision of opium shall annually, in due time, previous to the proper period for issuing the advances, make a settlement with the ryots who may choose to engage to cultivate the poppy, of the prices to be paid for the opium in the ensuing season. In this settlement, the rate per seer in Company's rupees, as well as the weight of the seer, according to the number of tola weight contained in the seer peculiar to each pergunnah, is to be specified on the completion of such settlement; a copy and a translation of it shall be forthwith sent to the Board of Revenue for their consideration, and on the agents receiving their approval of it, copies of the settlement shall be sent by the agents to the several judges and collectors of land revenue or other officer in charge of the abkary mehal within whose jurisdiction the poppy is cultivated, to be fixed up in their court-rooms and cutcherries; and the price settled for each pergunnah shall also be published by the agent in the pergunnah to which it relates.—Reg. XIII., 1816, sec. ix.

8. It is left to the option of every person to enter into engagements for the cultivation of the poppy on account of Government, at such prices as may be settled for the produce, or to decline the cultivation of it altogether.—Reg. XIII., 1816, sec. x.

9. The agent, or a person deputed by him, at the season of sowing the poppy, is to take an engagement from the cultivator specifying the number of begahs agreed to be cultivated, with the amount of the advance received by him, and the cultivator shall be bound to cultivate that number of begahs, or be liable to a penalty of three times the amount advanced on each begah, and proportionably for any part of the begah not so cultivated. When the poppy shall be full grown, the

agent is to depute a person, who shall proceed with the cultivator into the field, and with the assistance of two or three other creditable cultivators, form an estimate of what such field is likely to produce; whereupon the ryot or cultivator is to enter into an engagement to deliver so much, and should the field produce more, to deliver that also, pro rato. The agent shall, as soon as practicable after the sowing season, transmit a separate list of the cultivators, from whom he may take engagements in each pergunnah, to the magistrate, and to the collector or other officer in charge of the abkary mehal of the zillah.—Reg. XIII., 1816, sec. xi.

10. Officers of every description in the employment of the agents or their deputies are prohibited from taking or receiving any fee, gratuity, perquisite, or allowance, either in money or effects, under any pretence whatever, from any ryots or other person employed or concerned in the provision of opium; and if any such description of person, subject to the authority of the agent, shall be convicted, before the zillah or city magistrate within whose jurisdiction the offence may have been committed, of disobedience to this prohibition, he shall, besides being dismissed from his office by the officer or authority to which he may be subject, be further liable to imprisonment for any term, not exceeding six months, which the court may judge proper, together with such fine, not exceeding 200 rupees, as may appear adequate to his offence, commutable, if not paid, to a further period of imprisonment not exceeding six months; and upon the circumstances being represented by the Board of Revenue to the Governor-General in Council, he will, if it shall appear proper, declare the offender incapable of serving Government in any capacity thenceforward, and will cause the same to be published.—Reg. XIII., 1816, sec. xii.

11. The weights and scales made use of in the koties or warehouses in the different pergunnahs for weighing the opium received from the ryots are to be sealed with the seal of the magistrate of the district, and examined annually by him, or by such person as he shall think proper to appoint for that purpose, during the month of January. The agents or their officers making use of weights or scales not so sealed, or knowingly using uneven scales, or incorrect weights, though sealed, will be liable to such fine, not exceeding 500 rupees, as the magistrate may think proper to impose. The opium shall be fairly weighed in the presence of both parties by the beam being properly suspended to a triangle, or wooden stand or fixture, and every other mode of weighing will be considered as illegal.—Reg. XIII., 1816, sec. xiii.

12. In the event of the cultivator failing to deliver the full quantity of opium agreed for by him, in the manner specified in paragraph 9, if the agent shall suspect or believe the cause of failure to be in the wilful neglect of the ryot, he shall complain to the zillah or city judge within whose jurisdiction the land of the ryot may be situated; and if it shall be proved, to the satisfaction of the judge, that the failure has been owing to neglect, he is to award that the ryot shall restore the the proportional advance, with interest at the rate of twelve per cent. per annum. The ryot, so failing to fulfil his contract, shall likewise be liable, at the discretion of the judge, to a further penalty, not exceeding the amount of interest to the payment of which he will be liable under the above provision.—Reg. XIII., 1816, sec. xiv.

13. In cases in which the ryots shall deliver the opium in too liquid a state, or not inspissated to what is deemed, by experienced persons, the proper state of consistence, the agents or their officers are to appoint two or more credible opium ryots or cultivators to decide, on their dherm or conscience, what surplus quantity of keirdah shall be taken as an equivalent for the overweight arising from such want of consistence, and the parties shall abide by their award, unless it shall be proved, to the satisfaction of the zillah or city judge within whose jurisdiction the opium shall be delivered to the officer of Government that the arbitrators have been guilty of partiality.—Reg. XIII., 1816, sec. xv.

14. Where the crude material shall be delivered in by the ryot or cultivator in an adulterated state, as by the mixture of foreign ingredients, the agents or their officers may immediately seize on, and declare the same confiscated, sealing it up at the same time in the presence of the ryot, and under his signature or mark, and in the presence of two or more creditable witnesses, depositing it also in a secure and separate place, and leaving the ryot to have recourse against them to the Zillah or City Court; for which purpose they are to keep the said opium thus sealed up for one month, and if in that time the ryot shall not lodge his complaint, it shall not afterwards be heard, and the agents shall then open the said opium and report the particulars of the case to the Board of Revenue for their orders. Provided further, that in such cases the said opium ryot or cultivator shall, on failure to furnish the full quantity of opium agreed for by him, exclusive of the adulterated opium, be prosecuted in the Dewanny Adawlut of the city or zillah, and shall be liable to the penalty prescribed in paragraph 12, in the case of failure by wilful neglect, viz. to refund the proportional advance, with interest, and an eventual fine.—Reg. XIII., 1816, sec. xvi.

15. If any zemindar or other proprietor of land, or any farmer of land, or their representatives, should exact more from the ryots on account of their poppy lands than the established rates, the agent or the ryot from whom such exactions may be made, is to be at liberty to prosecute the person guilty of such exactions in the zillah or city Dewanny Adawlut, the judge of which shall

forthwith inquire into the same, and, on proof of the exaction, shall adjudge the person guilty of the offence to restore the amount-levied in excess of the established rate, with a further penalty of treble the amount.—Reg. XIII., 1816, sec. xvii.

16. The opium agents and their native officers of every description, are declared amenable to the Dewanny Adawlut of the city or zillah within the jurisdiction of which they may be stationed, for all acts done by them in their official capacity: provided, however, that any person conceiving himself aggrieved by the act of an opium agent, or of any ministerial officer acting under his authority, shall, in the first instance, make application for redress to the agent himself; and in the event of his not being satisfied with the order which the agent may pass upon such application, it shall then be competent to him either to lay his case by petition before the Board of Revenue, or at once to seek redress in the Dewanny Adawlut of the city or zillah within the jurisdiction of which he may reside. The rules contained in Regulation II., 1814, shall be considered applicable to all cases that may arise under the operation of this rule, and the course therein prescribed shall be observed in the admission of such cases.—Reg. XIII., 1816, sec. xviii.

17. The opium agents shall not, in their official capacity, prefer any suit to any of the Courts of Dewanny Adawlut without the previous sanction of the Board of Revenue.—Reg. XIII., 1816, sec. xix.

18. The judges of the Dewanny Adawlut of the several cities or zillahs are to take cognizance of all causes respecting opium, instituted by an agent or his representative against the ryots or others concerned in the provision or manufacture of that article, or by the latter against the former, as well as suits preferred under the provisions of paragraph 15, against zemindars or other proprietors of land, and proceed to try and decide upon the same with as little delay as possible, and without attending to the order in which they may stand on the file. In all matters relating to the trial and decision of such suits, the payment of costs and the execution of decrees not expressly provided for in this Regulation, the courts shall be guided by the general rules and usages observed in other suits cognizable by them.—Reg. XIII., 1816, sec. xx.

19. Nothing, however, contained in the above rules shall be construed to authorize the Courts of Dewanny Adawlut to interfere in cases the cognizance of which is vested by this Regulation in the collectors of land revenue or other officers in charge of the abkary mehal.—Reg. XIII., 1816, sec. xxi.

20. When any process shall be issued by a Court of Civil Judicature, or a collector, assistant collector, or officer in charge of the abkary mehal, to an agent, the judge of the court, or the collector, assistant collector or officer aforesaid, is to transmit the process under a sealed cover, addressed to the agent in the form of a letter, and superscribed with his name and official appellation. The agent is immediately to acknowledge the receipt of the process by an endorsement to that effect on the instrument, and to return it under a sealed cover addressed to the officer from whom it may have issued.—Reg. XIII., 1816, sec. xxii.

21. To facilitate the communication between the agents and their officers of koties, and their vakeels in the Zillah or City Courts, and the Sudder Dewanny Adawlut, and the mokhtars employed by them, with the collector or other officer in charge of the abkary mehal, who may be entrusted with the conduct of any suits or appeals in which they may be engaged in their official capacity, either whilst they may continue in office, or after their removal, they are permitted to forward, free of postage, any instructions which they may have to transmit to their vakeels and agents aforesaid. The instructions are to be enclosed under a sealed cover, directed to the vakeel or mokhtar. The instructions, so sealed and directed, are to be transmitted, under a sealed cover, addressed to the court, or the collector, or other officer before whom the cause may be depending, and superscribed with the name and official appellation of the person despatching it, or that which he bore when the cause of action arose. The court, collector, or other officer, immediately on receiving the instructions, is to deliver them sealed to the vakeel or mokhtar to whom they may be directed. In like manner, the vakeels in any of the courts or mokhtars aforesaid, to whom the pleading of such suits or appeals may be committed by agents or their head officers of koties, are authorized, either whilst their constituents remain in office, or after they shall have been removed, to forward any papers which they may have to convey to their constituents by the public dawk, free of postage. The papers are to be enclosed in a cover sealed with the seal of the vakeel or mokhtar, and the judge, or the collector, or other officer before whom he is employed, shall transmit the papers so sealed, in a cover, sealed and addressed to the person to whom they are to be forwarded, and superscribed with his official signature.—Reg. XIII., 1816, sec. xxiii.

22. In cases in which the Board of Revenue may judge it expedient, or in which they may receive orders for the purpose from the Governor-General in Council, they are to take upon themselves, or entrust to an officer specially appointed for the purpose, the superintendence of the prosecution or defence of any suit or appeal in which they or their officers may be engaged, either in a Zillah or City Court, or in the Sudder Dewanny Adawlut, or before a collector of the land

revenue or other officer in charge of the abkary mehal, or before the Board of Revenue, instead of leaving the superintendence of the conduct of the suit or appeal to the agent, or any of his officers or dependents.—Reg. XIII., 1816, sec. xxiv.

23. If the Board of Revenue shall be dissatisfied with a decree or judgment passed against an agent or any of his officers on suits in which they may have been engaged in any Court of Civil Judicature, or before a collector of land revenue or other officer in charge of the abkary mehal, under the rules hereinafter prescribed, either with or without their orders or the orders of the Governor-General in Council, they may authorize an appeal under the prescribed rules.—Reg. XIII., 1816, sec. xxv.

24. The following rules are enacted for the service of summonses and warrants on the undermentioned officers employed under the agents for the provision of opium.

| | |
|---|---|
| The Dewan, | Gomashtahs of koties, |
| Naib Dewan, | Cash keepers, ditto, |
| Cash keepers, | Mohurrirs, ditto, |
| Mohurrirs, | Purkeas, |
| Nagree writers, | Dandidars. |
| Godown keepers, | Reg. XIII., 1816, sec. xxv. |

25. In cases in which any of the officers above mentioned shall be charged before the magistrates with a bailable offence, the warrant shall be served in the manner directed with regard to summonses in civil cases; with this difference, that the warrant shall require the party summoned to appear in person or by vakeel, as the magistrate may think proper, and shall specify the amount of the sum for which the security or recognizance for the appearance of the defendant is to be given, and the amount of which shall be regulated by the magistrate, according to the nature of the charge and the situation and circumstances in life of the defendant.—Reg. XXXI., 1793, sec. x., cl. 4.

26. In all cases specified in the preceding paragraph, the opium agent or head officer through whom the summons or warrant may be served, shall return on the back of it in what manner it has been served, and by whom security has been executed.—Reg. XXXI., 1793, sec. x., cl. 5.

27. If a charge shall be preferred to a magistrate against any of the officers above mentioned, for an offence that is not bailable, and there shall appear to the magistrate sufficient ground for apprehending the person so charged, the warrant for his apprehension shall require him to appear immediately in person, and shall be executed in the same manner as upon persons not so employed. But the officer, after securing the offender, is to give notice of his apprehension to the opium agent or the head officer of the nearest koty or warehouse.—Reg. XXXI., 1793, sec. x., cl. 6.

28. The darogahs of police are to observe the rules prescribed in Section XXIX., Regulation XX., 1817, in complaints that may be preferred to them against any of the officers above mentioned.—Reg. XXXI., 1793, sec. x., cl. 7., and sec. xxix., Reg. XX., 1817.

29. In all cases in which the agents, or their head officers empowered for that purpose, shall become security, under any of the above rules, for the appearance of any person employed in the opium department, or for the fees of his vakeel, or shall declare any person whom the party summoned may offer as security, to be responsible, the agent is to be considered personally answerable for the due performance of the conditions of the security, in the event of the party for whom the security may be given not performing them himself, or where the party himself shall have given the security, and it shall have been declared responsible by the agent or his head officer of a koty or warehouse, in the event of the party or his surety not performing them. It will accordingly be the business of the agents to take care to employ creditable persons only as head officers at the several koties or warehouses to superintend the business, and become security, and to furnish them with proper instructions, and to take such security from them as they (the agents) may deem sufficient to indemnify themselves for the consequences that may result from any abuse which such officers may commit in the exercise of their trust.—Reg. XXXI., 1793, sec. x., cl. 8.

30. Summonses to any of the officers above mentioned as witnesses, shall be served in the same manner as if they were parties in the cause; but the judges are to be careful not to summon such persons excepting when their attendance shall be absolutely necessary, and on their appearance to have them examined and dismissed with all practicable despatch, so that they may be absent from the business of the opium department as short a time as possible.—Reg. XXXI., 1793, sec. x., cl. 9.

31. The agents and their head officers are declared liable to be sued in the Dewanny Adawlut, should they apply any of the rules in the preceding paragraphs regarding summonses and warrants issued against persons employed in the opium department to persons not bonâ fide so employed. And as the rules therein contained are intended only to prevent unnecessary

interruption in the opium department, where it can be avoided without impeding the course of justice, the judges and magistrates are empowered, in particular cases in which it may appear to them indispensably necessary for the purposes of justice, to order the personal attendance of any native officer or person in anywise concerned or employed in the opium department, whether he may be a party or a witness in the suit or prosecution, notwithstanding anything that may be said to the contrary in these rules, and to cause process to be executed upon him for that purpose, in the same manner as upon other individuals; but in such cases the judges and magistrates are to record their reasons for deviating from the prescriptions contained in the said rules, which are to be considered as the general rules for issuing and executing such summonses and warrants, and in the summons or warrant they are to specify that it has been specially ordered to be so executed, in virtue of the discretionary power vested in them by this para.; and they are, moreover, strictly enjoined to refrain from every unnecessary exercise of this discretionary power.—Reg. XXXI., 1793, sec. x., cl. 10.

32. A register of the names and stations of the officers enumerated in para. 24 shall be formed, and a copy of such register in the native languages shall be transmitted, once in every year, to the judge and magistrate and the collector or other officer in charge of the abkary mehal of the zillah in which such officer may reside. It shall also be the duty of the agent to keep the judge and magistrate, and the collector or other officer aforesaid, informed of any intermediate change of those officers.—Reg. XIII., 1816, sec. xxvii.

33. The following rules are enacted for the prevention of the illicit culture of the poppy and the illegal manufacture, sale, purchase, importation, transportation, or possession of opium.—Reg. XIII., 1816., sec. xxviii.

34. The several magistrates and the collectors or other officers in charge of the abkary mehal, on the receipt of the lists of the opium ryots or cultivators directed to be furnished to them by para. 9, shall transmit to the several police and abkary darogahs under their respective authority, a copy of the list of the cultivators residing in the pergunnahs within the respective jurisdictions of each darogah, with directions to prevent persons, who may may not have entered into engagements with the opium agent, from cultivating the poppy; and all darogahs within whose jurisdictions there may be no opium cultivation on the part of Government, shall be annually instructed by the several magistrates and collectors or other officers aforesaid, to use their endeavours to prevent the illicit culture of the poppy.—Reg. XIII., 1816, sec. xxix.

35. Ryots receiving advances for the cultivation of the poppy on account of Government, who may be guilty of embezzlement of the opium, for the provision of which they may have received advances from Government, or of otherwise illegally disposing of it, shall be liable to prosecution before the collector of the land revenue or other officer in charge of the abkary mehal of the district, and on conviction shall be liable to a fine of eight rupees per seer, and confiscation of the opium, if it can be seized, and when it cannot be seized, to a fine of sixteen rupees per seer, on the quantity proved to have been embezzled or otherwise illegally disposed of. In addition to the above penalties, the offenders shall be liable to imprisonment for a period not exceeding six months, and to further imprisonment not exceeding six months more, in the event of the fine not being duly discharged.—Reg. XIII., 1816, sec. xxx.

36. Any person who shall cultivate the poppy in opposition to the prohibition contained in paragraph 1, shall be liable to prosecution before the collector of the land revenue or other officer in charge of the abkary mehal of the district, and on conviction shall be subject to a penalty, to be calculated at the rate of twenty rupees per begah for whatever quantity of land shall have been so illegally cultivated; and if the poppy plants shall be growing on the said land, and the opium shall not have been extracted therefrom, the plants shall be destroyed. If the opium shall have been extracted and shall be seized, the same shall be confiscated. If the opium shall have been extracted and shall not be seized, the cultivator of the said land shall be subject to a penalty of thirty-two rupees per begah, instead of twenty rupees per begah, as above directed. Provided further, that in all cases wherein any person or persons may be convicted of illicit dealings in regard to opium, if the forfeiture incurred shall not amount to the sum of five hundred rupees, the person or persons aforesaid shall each of them forfeit to Government such further sum in addition to the prescribed forfeiture, as with the same may make the total penalty imposed amount to the said sum of five hundred rupees. In addition to the above penalties, the offender shall be liable to imprisonment for a period not exceeding six months, and to further imprisonment not exceeding six months more, in the event of the fine not being duly discharged.—Reg. XIII., 1816, sec. xxxi., and Reg. VII., 1824, sec. xviii., cl. 4.

37. Any person who shall directly or indirectly be concerned in, or who shall in any way cause, encourage, promote, or advise the illegal cultivation of the poppy, shall be liable to the same penalties and forfeitures as are prescribed for the case of persons illicitly cultivating the poppy.—Reg. VII., 1824, sec. xviii., cl. 1.

38. All zemindars, talookdars, and other proprietors of land, whether malguzary or la-khiraj,

all sudder farmers and under-renters of land of every description, all dependent talookdars, all naibs, gomashtahs, and other local agents, all sezawuls, tehsildars, and other native officers employed in the collection of the revenue and rents of lands on the part of Government or the Court of Wards, are hereby declared accountable for giving the earliest information to the police or abkary darogahs, to the magistrates, collectors of land revenue, or officers in charge of the abkary mehal, collectors of customs, opium agents or their deputies, of all poppy which may be illegally cultivated within the limits of the estate or farm held or managed by them.—Reg. XIII., 1816, sec. xxxii.

39. Any landholders or other description of persons above noticed to whom such responsibility is declared to attach, who may wilfully or knowingly neglect to give the information hereby required to the nearest police or abkary darogah, the magistrate, the collector of land revenue, or officer in charge of the abkary mehal, the collector of Government customs, the superintendent of salt chokies, the opium agent, or his deputy or assistant, shall, on proof of such neglect before the collector of the land revenue or other officer in charge of the abkary mehal, be liable to the penalty, with the exception of imprisonment, stated in paragraph 36, for whatever quantity of land shall be illegally cultivated with the poppy on their respective estates or farms, or on the lands under their management, unless it shall clearly appear to have been so cultivated without their knowledge or connivance.—Reg. XIII., 1816, sec. xxxiii.

40. All native officers of Government, of whatever description, including chokydars, pykes, or other officers of village police, are strictly enjoined to assist in preventing the illicit cultivation of the poppy, by giving instant information to the authority to which they are immediately subordinate, whenever it may come to their knowledge that any land has been illicitly so cultivated; and the magistrate or other authorities above alluded to, who may receive information of such illicit culture, shall immediately transmit the information so received to the collector of the zillah or other officer in charge of the abkary mehal; and if any officer aforesaid shall neglect to give information as above directed, or shall in any respect connive at the illicit cultivation of the poppy, he shall be liable to the same penalty as prescribed for the case of police and abkary darogahs permitting or conniving at the same, by para. 43.—Reg. XIII., 1816, sec. xxxiv., and Reg. VII., 1824, sec. xviii., cl. 2.

41. The like penalty shall attach to any putwary who may neglect to inform the canoongoe of the pergunnah or the collector of the district, of the illicit cultivation of the poppy, whenever the same may come to his knowledge.—Reg. VII., 1824, sec. xviii., cl. 3.

42. Whenever a police or abkary darogah shall obtain intelligence of any land within his jurisdiction having been cultivated with the poppy, in opposition to the prohibition contained in para. 1, he shall immediately proceed to the spot, and if the information be correct, shall attach the crop so illegally cultivated, and report the same without delay to the authority to which he may be subject. Such police or abkary darogah shall, at the same time, take security from the cultivator of the said ground for his appearance before the collector or other officer in charge of the abkary mehal; and in the event of such cultivator not giving the required security, he shall send him in custody to the magistrate or the collector or other officer in charge of the abkary mehal, according to the authority under which such darogah is placed, with the necessary witnesses to prove the quantity of land which may have been cultivated by him with the poppy.—Reg. XIII., 1816, sec. xxxv.

43. Any police or abkary darogah who shall knowingly permit the cultivation of the poppy within his jurisdiction, or who shall in any respect be convicted of conniving at the illicit cultivation of the poppy, shall besides being liable to dismission from office for neglect of duty under the existing Regulations, be further subject, on conviction before the magistrate of the zillah, to the payment of the fine stated in para. 36 for whatever quantity of land shall have been so illegally cultivated within his jurisdiction, with his knowledge or connivance; the fine, if not duly paid, shall be commutable to imprisonment for a period not exceeding six months.—Reg. XIII., 1816, sec. xxxvi.

44. Any subordinate officer of the opium agents, who shall be convicted of conniving in any way at the illicit cultivation of the poppy, shall in like manner be liable to dismission from office, and to pay, on conviction before the magistrate, the fine (commutable as above) stated in para. 36, for whatever quantity of opium shall have been so illegally cultivated with his knowledge and connivance, and likewise to imprisonment for a period not exceeding six months.—Reg. XIII., 1816, sec. xxxvii.

45. Proprietors and farmers of land, in whose estates or farms any poppy shall be grown in opposition to the provisions of this Regulation, shall be at liberty to attach such illicit crop of poppy grown within their own estates; such persons shall immediately report the same to the nearest police or abkary darogah, who shall proceed thereupon in conformity to the rules contained in para. 42.—Reg. XIII., 1816, sec. xxxviii.

46. All opium, excepting that which may have been manufactured on account of the Govern-

ment, or sold by their authority, which may be found within the provinces dependent on the presidency of Fort William, will be considered as contraband, and shall be liable to seizure and confiscation, together with the boats, carriages, cattle, and packages used in the storing or transport of it. But this shall not be considered as authorizing the seizure and confiscation of any opium, the produce or manufacture of a foreign state or country, which may be found in the possession of any traveller or visitant from such foreign state or country, nor the seizure and confiscation of the carriages, cattle, or packages on or in which the opium may be found; provided, that such opium do not exceed the quantity of two seers, and that it be bonâ fide intended for the private use and consumption of such traveller or visitant, or for the use and consumption of his attendants, and not for sale or traffic. Nor shall this rule be considered as authorizing the seizure and confiscation of any opium the produce or manufacture of a foreign state or country, which may be found in the possession of any dealers in horses from beyond the south-west frontier of the Conquered Provinces, travelling with a string of horses; nor the seizure and confiscation of the carriages, cattle, or packages on or in which the opium may be found; provided that such opium do not exceed the proportion of ten tola weight for each horse. But if any such traveller or visitant, or dealer in horses, shall at any time offer such opium for sale, it shall be liable to seizure and confiscation, together with the carriages, cattle, or packages in which it may be found. —Reg. XIII., 1816, sec. xxxix., and Reg. XI., 1818., sec. ii., cl. 1.

47. Any person who may by force or threats prevent an officer from effecting the seizure of any opium suspected to be contraband, or who may forcibly resist such officer in the execution of that duty, shall, in addition to the penalty prescribed for cases of connivance, be liable, on conviction before a magistrate, to a fine not exceeding one thousand rupees. Parties so offending shall further be liable, in the event of an affray, or other breach of the peace, occurring in consequence of their resistance, to be punished under the general rules applicable to such cases.—Reg. VII., 1824, sec. xviii., cl. 7.

48. If any officer authorized to attach opium, shall have seized, or be about to seize, any dispatch of opium, on information or suspicion of its being contraband, or shall have effected, or be about to effect, the attachment of the cattle, carriages, or boats used in transporting such opium, and shall have reason to apprehend forcible resistance, such officer shall apply to the nearest darogah to aid him in the execution of his duty; and all darogahs, or officers in charge of thannahs or chokies, to whom such application shall be made, or who may otherwise have reason to apprehend the occurrence of a breach of the peace in consequence of a seizure of opium, shall immediately afford the requisite aid to effect the seizure and preserve the peace.—Reg. VII., 1824, sec. xviii., cl. 8.

49. Such seizures shall be made on the responsibility at the risk of the officers authorized to seize; and the police-officers shall not be competent to exercise any discretion in regard to the propriety or otherwise of the seizure which they may be called upon to support, but shall be careful to prevent any unnecessary violence.—Reg. VII., 1824, sec. xviii., cl. 9.

50. Persons who may be desirous of exporting by sea, opium purchased at the Company's sales, shall produce a certificate from the Board of Revenue or one of their authorized officers, signifying that the opium in question was so purchased. The certificate must specify the purchase, lot, the mark and number of each of the chests applied for, the name of the purchaser, the costs of the opium, and the date of the sale. Any opium not corresponding with the certificate shall be liable to confiscation.—Reg. XIII., 1816, sec. xl.

51. The following officers are hereby declared to possess authority to seize all opium, together with the cattle, carriages, boats, and other articles, which under the provisions of this Regulation may be liable to seizure and confiscation, viz., the opium agents, their deputies and assistants, zillah and city magistrates, collectors of land revenue, or officers in charge of abkary mehal, or both, where the offices may be separate, collectors and deputy collectors of customs, superintendents of salt chokies, and their subordinate officers respectively, being above the rank of peons, burkundazes or ordinary chuprassies. But it shall and may be lawful for the Governor-General in Council to grant authority to such public officers, or other persons whatsoever, to seize and detain contraband opium, and other intoxicating drugs, and within such local limits as he may from time to time judge necessary or expedient, and whenever any person not vested with powers of seizure by this Regulation may be especially authorized to seize under the authority of the Governor-General in Council, the arrangement shall be notified by an advertisement published in the cutcherry of the officer in charge of the abkary mehal, and in the adawlut of the city or zillah within the jurisdiction of which the authority so given is to be exercised. Provided, however, that no person shall break open any boat, carriage, chest, cask, box, bale, package or other article suspected to contain opium, except under a warrant from the magistrate or collector of the district, or other officer in charge of the abkary mehal; and any person detaining on such suspicion, otherwise than under the orders of one of these two last-mentioned officers, any boat, carriage, cask, chest, box, bale, or package, shall be liable, if no contraband opium be found, and if the detention appear to have been made

without sufficient cause, to be adjudged by the collector of the zillah or other officer in charge of the abkary mehal, to pay to the party injured the damages he may have sustained by such detention. Provided further, that all native officers making a seizure under the powers vested in them by this Regulation shall, within twenty-four hours of making such seizure, communicate their having done so, with a report of the circumstances connected with the seizure to the authority to which they may be respectively subject; and any magistrate or other officer to whom a seizure may be thus communicated shall immediately transmit the report to the collector of the zillah or other officer in charge of the abkary mehal, to whom all opium so seized shall be delivered.—Reg. VIII., 1824, sec. xvii., and Reg. XIII., 1816, sec. xli.

52. Native officers of Government, of every description, and especially all such officers in the districts within which, or in the neighbourhood of which, opium is manufactured on the public account, are hereby strictly enjoined to assist to the utmost of their power in the suppression of the illicit sale, purchase, importation, transportation, or possession of opium, by seizing the same, if authorized to do so, or if not vested with the power of seizure, by giving immediate information to the authority to which they may be respectively subject, of all instances of such illicit sale, purchase, importation, transportation, or possession of opium, which may come to their knowledge; and any native officer aforesaid, who may connive at the illicit sale, purchase, importation, transportation, or possession of opium, or who may neglect to give information in either of those cases, shall, on conviction before the zillah or city magistrate (if the native officer be subordinate to them, or in other cases before the collector of land revenue, or officer in charge of the abkary mehal), be liable to a fine not exceeding eight rupees for each and every seer so sold, purchased, imported, transported, or possessed, with his knowledge or connivance, commutable in the event of its not being paid, to imprisonment for a period not exceeding six months. And if the quantity of opium so sold, purchased, imported, transported, or possessed, cannot be ascertained, then and in that case the officer offending as aforesaid shall be liable to a fine not exceeding one thousand rupees, commutable as aforesaid to imprisonment for a period not exceeding six months. Any magistrate or other officer to whom information may be given under this rule, shall immediately transmit the same to the collector of the zillah or other officer in charge of the abkary mehal.—Reg. XIII., 1816, sec. xlii., and Reg. VII., 1824, sec. xviii., cl. 6.

53. When any opium shall be seized and delivered to the collector of the zillah, or the assistant collector in places where such officers are appointed, the collector or assistant collector (as the case may be) shall issue a publication notifying that if no claimants thereto shall appear within one month, it will be confiscated. If any claimant shall in consequence appear within the limited period, the collector is to investigate and decide on his right to the opium; and in the event of his deciding against the claimant, or of no person appearing to claim the opium, he is to declare the opium confiscated, to be applied in such mode as may be prescribed by the Governor-General in Council.—Reg. XIII., 1816, sec. xliii.

54. All boats, carriages, bales, casks, chests, boxes, or packages, on which or in which any contraband opium may be loaded or concealed, together with all horses, bullocks, or other cattle employed in its transportation, are hereby declared to be liable to confiscation, and they shall be delivered to the collector of the zillah or other officer in charge of the abkary mehal, by whom they shall, on the confiscation of the opium, be sold, and the proceeds disposed of in the manner hereinafter prescribed.—Reg. XIII., 1816, sec. xliv.

55. All persons who may be proved to have purchased contraband opium, or in whose possession contraband opium may be found, shall be liable to prosecution before the collector of land revenue, or other officer in charge of the abkary mehal; and on conviction, shall be subject to a fine of eight rupees per seer on the quantity of contraband opium which they may have purchased or may have in their possession, in addition to the confiscation of the opium when it can be seized, and when it cannot be seized, sixteen rupees per seer of eighty tola weight, to be recoverable by suit or information before the collector of the zillah within whose jurisdiction the offender may reside. In cases in which the above fine shall not amount to Rs. 500, the said offender shall likewise be liable, at the discretion of the collector or other officer in charge of the abkary mehal, to a further fine not exceeding such a sum as shall make the total fine imposed amount to Rs. 500. In addition to the above penalties, the offender shall be liable to imprisonment for a period not exceeding six months and to a further imprisonment not exceeding six months more, in the event of the fine not being duly discharged. But this rule shall not be considered as authorizing the imposition of any fine or a sentence of imprisonment on any such traveller or visitant, or dealer in horses, from a foreign state or country, in whose possession any greater quantity of opium, the produce or manufacture of any foreign state, may be found, than the quantity specified in para. 46; nor the infliction of any other penalty besides the confiscation of the opium in excess to such limitation.—Reg. XIII., 1816, sec. xlv., and Reg. XI., 1818, sec. ii., cl. 2.

56. Provided, however, that if any such traveller or visitant, or dealer in horses, shall at any

time offer such opium for sale, or shall be proved to have at any time sold such opium, he or they shall be liable to all the penalties prescribed.—Reg. XI., 1818, sec. ii. cl. 3.

57. Provided also, that nothing contained in the above rules shall be considered applicable to persons fraudulently or clandestinely importing foreign opium into the provinces dependent on the presidency of Fort William, in violation of the law; all such persons shall be and continue subject to the penalties which are or may be prescribed for illicit dealings in opium.—Reg. XI., 1818, sec. ii., cl. 4.

58. Any person or persons purchasing or receiving opium from a cultivator or other person, who may have entered into engagements for the cultivation of the poppy, or who may be employed in the provision of opium on account of Government, or bargaining for the purchase of opium with such cultivator, or other person aforesaid, or in any way causing, encouraging, or advising such cultivator or person to embezzle or illegally dispose of any opium, shall each and all of them forfeit to Government a sum equal to three times the penalty prescribed in para. 55 for the illicit purchase or possession of opium; viz., the sum of twenty-four and forty-eight rupees per seer on the quantity of opium purchased, bargained for, or designed to be illicitly disposed of, as the case may be: and in cases wherein the said forfeiture shall not amount to the sum of one thousand and five hundred rupees, the party or parties aforesaid shall each of them forfeit such further sum as with the forfeiture aforesaid shall make the total penalty imposed amount to one thousand and five hundred rupees; the said fines, if not paid, shall be commutable to imprisonment for a period not exceeding twelve months. In addition to the said penalties, the offender shall be subject to imprisonment for the term prescribed in the aforesaid paragraph, for cases of illicit purchase or possession of opium.—Reg. VII., 1824, sec. xviii., cl. 5.

59. All zemindars, talookdars, or other proprietors of land, whether malguzary or la-khiraj, all farmers of land holding farms immediately of Government, all naibs, gomashtahs, or other local agents, all sezawals, telisildars, or other native officers employed in the collection of the revenue or rents of lands on the part of Government or Court of Wards (when not themselves the purchasers or possessors of the opium) are declared liable to the like penalty, recoverable as above described; for all contraband opium which may be proved to have been sold within the limits of the lands in their possession or management with their connivance or knowledge,—that is to say, eight rupees per seer when the opium may be seized, and when it cannot be seized, sixteen rupees per seer of eighty tola weight.—Reg. XIII., 1816, sec. xlvi.

60. All native officers of Government or other persons who may give information of the illicit culture of the poppy, or the illegal manufacture, sale, purchase, importation, transportation, or possession of opium, or who may be actively concerned in promoting any lawful seizure of contraband opium or attachment of crops under this Regulation, shall, on the attachment of land illegally cultivated with the poppy or the seizure and confiscation of contraband opium, be entitled to the rewards hereinafter prescribed.—Reg. XIII., 1816, sec. xlvii.

61. The opium agent of Behar and his deputies, the commercial residents of Ghazeepore and Rungpore, or other officers to whom the superintendence of the provision of opium at those places may be entrusted, the collectors and deputy collectors of customs and the superintendents of the salt chokies, shall be entitled to the rewards hereinafter prescribed in the cases hereinafter specified —Reg. XIII., 1816, sec. xlviii.

62. In any cases in which the fine of sixteen rupees per seer on opium embezzled by ryots cultivating on account of Government shall be levied when the opium may not be seized, in conformity to para. 35, or in which the penalty specified in paras. 36, 39, 43, and 44, shall be levied, on account of the illegal cultivation of the poppy, when the crop shall be destroyed, or when the opium produced shall not be seized, one-half of such fine shall be paid to the person in consequence of whose information the fine shall have been so levied, whether he be an officer of Government or not.—Reg. XIII., 1816, sec. xlix.

63. It shall be the duty of all medical officers who may be called upon by the collectors of land revenue, or other officers in charge of the abkary mehal, or by the opium agents of Behar and Benares, and their respective deputies, to report on the quality of any seized or confiscated opium, to class the same under one of the four following heads, &c.:—

"Good opium,"—by which is meant perfectly pure opium.

"Marketable opium,"—or opium not having more than one quarter of foreign matter in it.

"Inferior opium,"—or opium having not more than one-half of foreign matter in it; or,

"Useless opium,"—by which is to be understood opium adulterated with more than one-half of foreign matter.—Reg. VII., 1824, sec. xx., and Reg. VIII., 1826.

64. The opium agents and their deputies shall not be entitled to any share of the rewards heretofore received by them for opium, which may have been attached or confiscated by their respective orders, or by their respective officers. Provided also, that it shall be competent to the Governor-General in Council, by an order in council, to discontinue the payment of the said

rewards to any officers of Government, and to modify the distribution thereof in such manner as may from time to time appear expedient.—Reg. VII., 1824, sec. xxi., cl. 1.

65. In case any attachment of illicit opium shall be made on information, and the opium shall be confiscated, the person or persons on whose information the same may have been seized shall be entitled, provided the opium is declared by the civil surgeon of the station to be "good," to a reward calculated at the rate of one rupee eight annas per seer of eighty-two tola weight on the opium so confiscated, and the native officer or officers of Government, who, upon such information, made the attachment, or were immediately concerned in making it, shall be entitled to a similar reward. If the seizure of such opium shall have been made exclusively by the officer or officers of Government, and not upon information given by any other person, such native officer or officers shall be entitled to a reward at the rate of three rupees per seer of eighty-two tola weight on the opium which may have been seized and confiscated.—Reg. VII., 1824, sec. xxi., cl. 2.

66. If the opium shall be declared "marketable," the informer or informers shall be entitled to a reward of twelve annas per seer of eighty-two tola weight on the quantity of opium seized and confiscated; and the native officer or officers who seized it upon such information, to a similar reward. In case the seizure of such opium shall have been made exclusively by the officer or officers of Government, and not upon information, such officer or officers shall be entitled to a reward of one rupee eight annas per seer of eighty-two tola weight on the quantity of opium which may have been seized and confiscated —Reg VII., 1824, sec. xxi., cl. 3.

67. If the opium shall be pronounced "inferior," the informer or informers shall receive a reward of ten annas per seer on the quantity confiscated, and the seizer or seizers of the opium on such information shall be entitled to a reward at the same rate.—Reg. VII., 1824, sec. xxi., cl. 4.

68. In either of the three foregoing cases, that is to say, whenever opium shall be seized and confiscated, which is declared by the medical officer to be either good, marketable, or inferior, the persons on whose information the same have been seized, shall receive one-half of any fine which may be levied in consequence, and a moiety of the amount proceeds of the sale of any boat, carriage, or other vehicle, bullock, or other beast of burthen, box, chest, or other package, which may have been seized with it; and the native officer or officers who seized it upon such information, to one-fourth of the fine that may be levied, and a similar proportion of the amount proceeds of the confiscated article that may have accompanied it. If the seizure shall have been effected exclusively by the officers of Government, and not upon information, such officer or officers shall receive, besides the rewards above assigned to them, three-fourths of any fine levied in consequence of the seizure, and an equal proportion of the amount proceeds of the sale of the boat, carriage, or other vehicle, bullock, or other beast of burthen, box, chest, or other package, which may have been seized and confiscated —Reg. VII., 1824, sec. xxi., cl. 5.

69. No reward shall be payable on opium declared to be "useless" which may be seized and confiscated.—Reg. VII., 1824, sec. xxi, cl. 6

70 Provided that the said rewards shall be granted only in cases in which the owners of opium seized and confiscated may be apprehended and convicted; and that in cases in which the said owners shall not be apprehended and convicted, the persons seizing the opium, or giving information leading to the seizure of it, and the officers by whom the seizure may be effected, shall be entitled to one moiety only of the said rewards —Reg. XI., 1818., sec. iv.

71. The following rules have been enacted for regulating the internal consumption of opium, and for preventing the illicit sale of that drug —Reg XIII., 1816, sec. liii.

72. The retail sale of opium in the interior shall be considered a branch of the abkary revenue, and shall be conducted under the superintendence and directions of the collectors of land revenue or other officers intrusted with the charge of the abkary mehal, subject to the control of the Board of Revenue —Reg. XIII, 1816, sec. liv.

73. The collectors or other officers entrusted with the charge of the abkary mehal shall, once every year or oftener, state to the Board of Revenue the quantity of opium which may be required for their respective districts, and shall be supplied with the same in the mode which the Governor-General in Council shall direct.—Reg. XIII., 1816, sec. lv.

74. Shops shall be established on the part of Government for the retail sale of the drug, at such places as may be deemed most convenient for supplying the wants of the community.—Reg. XIII., 1816, sec lvi.

75. The sale of opium at the shops which may be established by Government shall be conducted by persons nominated for that purpose by the collectors or other officers in charge of the abkary mehal respectively, with such other establishment as may be deemed necessary, either at a fixed monthly salary, or to be paid by a commission on the amount sale of the opium, or partly by both, as may be considered to be most expedient.—Reg. XIII., 1816, sec. lvii.

76. The person so nominated shall receive a sunnud drawn up in the form No. 1, annexed to this Regulation, and shall enter into a corresponding engagement. The person so nominated shall

moreover give such security as the collector or other officer in charge of the abkary mehal shall require.—Reg. XIII., 1816, sec. lviii.

77. Any breach of the conditions of this engagement shall render the offender liable to dismission from his office, and to a fine not exceeding five hundred rupees, or in the event of the fine not being duly discharged, to such imprisonment, not exceeding six months, as the collector may deem adequate to the degree of offence committed.—Reg. XIII., 1816, sec. lix.

78. In cases in which it may be deemed advisable, the collectors or other officers in charge of the abkary mehal may, with the sanction of the Board of Revenue, authorize individuals to vend opium by retail, under regular licenses.—Reg. XIII., 1816, sec. lx.

79. In cases in which an arrangement of this nature may be judged advisable by either of the above-mentioned authorities, due notice shall be publicly given of such intention, and of the periods at which licenses will be granted to individuals for the retail sale of that article, and the conditions on which such licenses will be granted.—Reg. XIII., 1816, sec. lxi.

80. In such cases any person desirous of obtaining such a license shall present a derkhast or written application to that purport to the collector or other officer in charge of the abkary mehal, specifying the place at which he is desirous of establishing his shop; and on his application being acceded to, shall furnish such security for the due performance of his engagements as the collector or officer aforesaid shall deem sufficient.—Reg. XIII., 1816, sec. lxii.

81. On the person so applying having furnished the security referred to in the preceding paragraph, a license for one year shall be granted to him, agreeably to the form No. 2, affixed to this Regulation, and a correspondent kabooliat be taken from him.—Reg. XIII., 1816, sec. lxiii.

82. The opium shall be furnished to the licensed venders in monthly portions, and it shall be the duty of the Board of Revenue to determine the terms on which the opium is to be supplied, and the amount of the daily tax which they shall be required to pay, in addition to the price of the opium which they may clear out. The Boards aforesaid shall cause the highest price or rates of duty to be fixed that can be done without risk of giving rise to the illicit manufacture and sale of opium.—Reg. XIII., 1816, sec. lxiv.

83. On any breach of the conditions of his engagement, not being an offence specifically provided for, the license granted to the opium vendor shall be considered forfeited, and the offender shall be liable to a fine not exceeding fifty rupees, and in the event of the fine not being duly discharged, to such imprisonment, not exceeding one month, as the collector or other officer in charge of the abkary mehal may deem adequate to the offence committed. The offender shall likewise forfeit his security to such extent as the collector may judge necessary to indemnify Government for the loss occasioned by his default, over and above the amount payable by him in the ordinary course, under the engagement contracted with the collector or other officer entrusted with the abkary mehal up to the date of the resignation of his sunnud.—Reg. XIII., 1816, sec. lxv.

84. Persons licensed to vend opium shall be at liberty to surrender their licenses; and shall be relieved from their engagements on making application for that purpose to the collector, and paying a sum equal to the daily tax for one month, over and above the amount payable by them in the ordinary course, under their engagements contracted with the collector or other officer in charge of the abkary mehal, up to the date of the resignation of their licenses.—Reg. XIII., 1816, sec. lxvi.

85. Any license which may be issued under the rules of this Regulation shall only be considered to authorize the establishment of one shop. If any vender shall be desirous of establishing more than one shop, he shall take out a separate license for each: but all licensed venders of opium shall be held answerable for the due performance of the conditions of their licenses by the persons to whom they may entrust the management of any shop, in the same manner as they are themselves responsible for their own acts; and any licensed vender of opium, selling the drug elsewhere than in the shop specified in his license, shall be held liable to the penalties prescribed for the illicit vend.—Reg. XIII., 1816, sec. lxvii.

86. The Board of Revenue may likewise, in cases where it may appear advisable, authorize the collectors or other officers in charge of the abkary mehal to grant, on application from any person, whether licensed vendor or otherwise, desirous of vending opium at any temporary haut, a special license for that purpose, specifying the name of such haut and the number of days for which the license shall have effect. This license shall be drawn out (mutatis mutandis) in a form similar to No. 2, annexed to this Regulation.—Reg. XIII, 1816, sec. lxviii.

87. The collectors or other officers entrusted with the abkary mehals, shall be allowed a commission of five per cent. on the net amount realized by them on the sale of opium under the provisions of this Regulation.—Reg. XIII., 1816, sec. lxix.

88. If in any case adulterated opium be attempted to be delivered out or offered for sale, directly or indirectly, by any of the venders (or persons employed by them) nominated by the

collector or other officer in charge of the abkary mehal, to conduct the sales at the shops established on account of Government, or by any licensed vender of opium, the license granted to him shall be forfeited, and he shall be subject, on conviction before the collector, to a fine not exceeding five hundred rupees, and to such imprisonment not exceeding six months as the collector of the zillah may judge proper; the opium shall be confiscated and destroyed, and all boats, carriages, cattle, and packages of whatever description on which or in which it shall be found, shall be seized and confiscated. The person giving information of the fact shall, on the conviction of the offender, be entitled to a moiety of whatever fine the collector or other officer in charge of the abkary mehal may deem it proper to impose on the offender.—Reg. XIII., 1816, sec. lxx.

89. If the person so charged shall deny that the opium is adulterated, the collector of the zillah shall refer the opium for examination to the surgeon of the station, or where there may be no surgeon, shall summon and examine two or more of the most respectable native doctors or other competent judges on the point; and for this purpose the collector or other officer in charge of the abkary mehal shall always retain a certain quantity of all despatches of opium which he may deliver to the venders, as a sample with which to compare the opium sold by them.—Reg. XIII., 1816, sec. lxxi.

90. The rules prescribed in Regulation X., 1813, respecting the sale of spirituous liquors in the vicinity of military cantonments, shall likewise be applicable to the sale of opium under the provisions of this Regulation.—Reg. XIII., 1816, sec. lxxii.

91. It shall be competent to the collector to enforce payment of arrears due from persons licensed to vend opium, either from the defaulter or his surety, by the process in force for the recovery of arrears of revenue due from farmers of land and their sureties.—Reg. XVII., 1814, and Reg. XIII., 1816, sec. lxxiii.

92. No opium shall be sold, except at the shops established on the part of Government, or by persons duly authorized under license by the collectors or other officers in charge of the abkary mehal.—Reg. XIII., 1816, sec. lxxiv.

93. Any unauthorized person who shall sell any quantity of opium whatever, whether large or small, shall, on conviction before the collector of land revenue, be subject to such fine not exceeding five hundred rupees, or in lieu of it to such imprisonment not exceeding six months, as the collector may judge proper; provided, however, that this rule shall not be construed to extend to native doctors bonâ fide administering opium as medicine in cases of actual sickness.—Reg. XIII., 1816, sec. lxxv.

94. All persons may have in their possession any quantity of opium not exceeding five tolas weight, of the weight in use at the public shops in the district, being opium duly manufactured on account of Government, or sold by its authority, and intended for private use and consumption, and not for sale or traffic.—Reg. XI., 1818, sec. iii., cl. 1.

95. If a greater quantity of opium than that above specified shall be found on or in possession of any person not duly authorized, and not being of the description specified in para. 46, the opium shall be considered contraband, and shall be liable to confiscation, together with the animals, carriages, and articles of whatever description on which or in which it may be found; and if the offender shall be unable to show any sufficient or reasonable cause for having a larger quantity than five tolas in his possession, he shall be further subject, on conviction before the collector of land revenue, to the penalties prescribed in para. 59 for the purchase and possession of contraband opium. The person or persons through whose means the offence may be detected shall, on the conviction of the offender, be entitled to the rewards specified in paras. 64 to 70.—Reg. XIII., 1816, sec. lxxvi., and Reg. XI., 1818, sec. iii., cl. 2.

96. Provided, however, that in cases in which the Board of Revenue, or other authority exercising the powers of that Board, may deem it expedient to authorize native medical practitioners, or other individuals, to retain in their possession, for medical purposes, a larger quantity of opium than five tolas weight, or to supply such persons with opium directly from the collector's office, at a lower price than it can be furnished by the licensed venders, the Board, or other authority aforesaid, shall be empowered to direct the collectors, or other officers in charge of the abkary mehal, to grant to such persons a special license to that effect, free of tax, and to supply them with opium on such terms as under the circumstances of the case may appear reasonable and proper.—Reg. XI., 1818, sec. iii., cl. 3.

97. Parties receiving such licenses shall in no case sell or give any of the opium received by them under the above provision, unless for the purpose of its being bonâ fide administered under their own directions as medicine, in cases of actual sickness duly ascertained by them. All such licenses shall be liable at all times to be cancelled by the collector, or other officer in charge of the abkary mehal, with the sanction of the Board of Revenue, or other authority exercising the powers of that Board; and any person having such a license, who shall sell or give opium to any person otherwise than for the purpose and in the manner above stated, or shall have in his possession a larger quantity of opium than that specified in his license, shall be subject

to all the penalties prescribed for the illicit vend and possession of the drug.—Reg. XI., 1818, sec. iii. cl. 4.

98. Provided, however, that nothing contained in the above paragraph shall be construed to apply to authorized opium cultivators, having newly extracted opium in their possession, during the usual period between the full growth of the poppy and the delivery of the opium to the agent.—Reg. XIII., 1816, sec. lxxvii.

99. The collectors or other officers in charge of the abkary mehal shall furnish the abkary darogahs and the darogahs of the police with a list of the persons licensed to vend opium, and it shall be the duty of persons holding the office of abkary or police darogahs to apprehend and send in to the authority under whom they may be placed, all persons engaged in the illicit sale of opium; provided, however, it shall be their duty at the same time to send the necessary witnesses to prove the fact. In all cases in which such persons guilty of the illicit sale of opium, or in which ryots guilty of the illegal culture of the poppy shall be sent in to the magistrate, it shall be his duty, immediately on their arrival, to send the persons so charged, together with the witnesses who may have been sent along with them, to the collector of land revenue or other officer in charge of the abkary mehal, who will pass judgment on the case under the rules hereinafter prescribed. —Reg. XIII., 1816, sec. lxxviii.

100. It shall be the duty of the Board of Revenue to furnish the several officers under their control with such detailed instructions in respect to the prevention of the illicit culture of the poppy, and the illegal manufacture, sale, purchase, importation, transportation and possession of opium, as they may deem necessary, with a view of better securing that object, consistently with the provisions of this Regulation.—Reg. XIII., 1816, sec. lxxix.

101. All suits, complaints and informations, for the recovery of any fine or penalty recoverable by Government or by the informer, on account of the illicit cultivation of the poppy, the illicit manufacture, sale, purchase, importation, transportation or possession of opium (excepting complaints or charges preferred against public officers for a breach of their official duty under the rules of this Regulation, the cognizance of which is reserved to the magistrates), are hereby declared cognizable by the collector of land revenue or other officer in charge of the abkary mehal; any thing in the existing Regulations to the contrary notwithstanding; and the investigation thereof shall be conducted under the following rules.—Reg. XIII., 1816, sec. lxxx.

102. Whatever judicial powers are declared to be vested in the collectors of land revenue, or officers in charge of the abkary mehal, shall also belong to and be discharged by the opium agents of Behar and Benares, and their respective deputies, and the investigation of all suits, complaints, or informations which may come before them for the recovery of any fine or penalty recoverable by Government or by the informer, on account of the illicit cultivation, manufacture, sale, purchase, importation, transportation, or possession of opium, shall be conducted under the same rules as are in force for the guidance of the collectors of land revenue, or other officers in charge of the abkary mehal.—Reg. VII., 1824, sec. xix., cl. 1.

103. No suit, complaint or information of the nature above mentioned, shall be admitted or proceeded upon by the collector or other officer vested with the cognizance of the same, unless it shall be preferred within the period of six months after the act for which the fine or other penalty may be demandable shall have been committed, excepting in cases in which the same shall be prosecuted on the part of Government, and good and sufficient cause be shown why the suit was not preferred within the period of six months from the commission of the act whereupon the fine or other penalty is demandable.—Reg. XIII., 1816, sec. lxxxi.

104. Petitions and other papers presented in suits, informations and complaints, preferred under this Regulation before a collector of land revenue, or other officer in charge of the abkary mehal, shall not be required to be written on stamped paper; and all engagements contracted between Government or its officers, and individuals under this Regulation, shall be received and admitted in evidence in the different Courts of Judicature, and by the collectors of land revenue and other officers vested with judicial powers, although not written on stamped paper.—Reg. XIII., 1816, sec. lxxxii.

105. Whenever a collector or other qualified officer* shall have strong grounds to believe, either from charges preferred or evidence given on oath or affirmation, or from his own personal knowledge, that the poppy is actually growing in the field of any ryot, contrary to the prohibition of this Regulation, he shall cause the crop to be immediately attached, if not already attached, by a competent officer, and the poppy to be destroyed. In the same manner, if he shall have good grounds to believe that any person actually has upon him or in his possession a quantity of contraband opium, he shall immediately issue his warrant for the seizure of the same; and in both these cases it shall be competent to the officer to issue a warrant for the immediate apprehension of the persons so

* The judicial powers originally granted to collectors of land revenue or other officers in charge of the abkary mehal having been extended to the opium agents of Behar and Benares and their respective deputies (by the rule in para. 102), the words "qualified officer" have been substituted for "officer in charge of the abkary mehal."

charged or suspected of the illicit culture of the poppy, or the illegal possession of opium, summoning at the same time any witnesses that may appear necessary. The collector or other officer in charge of the abkary mehal, together with the magistrate of the district, is likewise hereby authorized to seize, detain and search all boats, carriages, bales, chests, and packages of every description in which he may have sufficient grounds to suspect that opium is concealed.—Reg. XIII., 1816, sec. lxxxiii.

106. In all other cases in which any person may be accused, before the collector or other qualified officer, of acts rendering him liable to any of the penalties prescribed in this Regulation, the collector or such other officer shall issue a summons, with or without requisition of security, to be served by a single chupprassy, requiring the attendance of the person charged, either in person or by vakeel, as the case may appear to the officer to require, to answer to the charge, on or before a certain day to be specified in the summons; and if it be necessary to require bail, the extent of the bail shall be stated in the summons.—The collector, or other officer aforesaid, shall at the same time summon such witnesses as may be named by the informer, and as he may judge it necessary to examine in proof of the accusation, to attend at the time appointed for the attendance of the accused.—Reg. XIII., 1816, sec. lxxxiv.

107. In all cases in which the party accused or suspected may be apprehended, whether under the warrant of the collector or other qualified officer, or by the police and abkary darogahs, in the cases provided for in paras. 36, 100, and 106, or shall attend in person, the investigation by the collector or other officer aforesaid shall be commenced immediately on the arrival of the party at his cutcherry, and shall be prosecuted with the least possible delay, consistently with a due inquiry into the facts: and generally, all cases of this nature tried before the collector or other qualified officer, shall, as far as practicable, be proceeded upon on the day specified in the summons for the attendance of the party or his vakeel, unless it shall be necessary to postpone the investigation in order to procure the necessary evidence.—Reg. XIII., 1816, sec. lxxxv.

108. The collectors or other qualified officers are hereby authorized to summon witnesses and administer oaths, or cause the execution of solemn declarations in lieu thereof, in respect to all matter brought before them under this Regulation, conformably with the rules in force; provided that if any witness shall refuse to take the oath or affirmation required from him, he shall be sent to the judge of the Zillah or City Court, to be confined as prescribed by the Regulations in similar cases.—Reg. XIII., 1816, sec. lxxxvi.

109. The collector or other qualified officer shall, in the summoning and the examination of witnesses, and in the general conduct of the investigation, be guided (except when otherwise prescribed) by the rules prescribed for the guidance of the magistrates in the trial of persons charged with offences punishable by them; provided, however, that in suits brought by any of the officers of Government, the personal attendance or deposition of the prosecutor shall not be required, but the prosecution shall be conducted by any agent or vakeel the prosecutor may choose to appoint for that purpose.—Reg. XIII., 1816, sec. lxxxvii.

110. Any person giving intentionally and deliberately a false deposition on oath, or under solemn declaration taken instead of an oath, relative to any proceeding depending before a collector or other qualified officer under this Regulation, and upon a point material to the issue thereof, shall be held and considered guilty of perjury, and shall be liable to the penalties prescribed for that offence in the Regulations; and any person causing or procuring another person to commit the offence of perjury as above described, is declared guilty of subornation of perjury, and punishable under the provisions of the said Regulations.—Reg. XIII., 1816, sec. lxxxviii.

111. Persons resisting any process issued by the collector or other qualified officer, in any case depending before him under this Regulation, shall be liable to the penalties prescribed for cases of resistance to the process of a collector in Regulation XIV. 1793, Regulation VI. 1795, and Regulation XXVII. 1803, under the provisions therein specified.—Reg. XIII., 1816, sec. lxxxix.

112. Whenever the collector or other qualified officer shall require the assistance of police darogahs or other police officers, in the apprehension of persons charged before them, in attaching crops or seizing contraband opium, or generally in serving any process, he shall apply by a roobakaree to the magistrate, who is authorized and enjoined to cause his police officer to carry the requisition of the collector or officer aforesaid into effect, as far as may be practicable and consistent with law.—Reg. XIII., 1816, sec. xc.

113. Whenever any person may be adjudged to pay a fine or to be imprisoned under the provisions of this Regulation, he shall be immediately sent with a roobakaree to the judge of the city or zillah, stating the purport of the order passed against the person in question; and the judge shall on those grounds give the necessary directions for the execution of the order accordingly. And it shall be competent to the officer by whom the fine may have been adjudged, in the event of its not being immediately discharged, not only to transmit the party fined to the judge of the

Dewanny Adawlut, in order that he may be confined, but likewise to have recourse to the attachment and sale of any personal property belonging to the party; and in the event of the amount of the fine not being liquidated by the sale of such personal property, recourse shall then be had to the sale of any real property which may belong to the party, under the rules for the sale of lands in liquidation of arrears of revenue.—Reg. XIII., 1816, sec. xci., and Reg. VII., 1824, sec. xxii.

114. All persons sentenced to imprisonment under the provisions of this Regulation, and all persons confined for non-payment of the fines to which they may be liable, shall be confined exclusively in the Dewanny jail.—Reg. XIII., 1816, sec. xcii.

115. In cases in which it may be necessary to imprison the offender, and in which a fine cannot or may not be levied from him, a reward of ten rupees shall be paid on the part of Government to the informant or informants, in lieu of his or their share of the fine to which the offender may have become liable under the provisions of this Regulation.—Reg. XIII., 1816, sec. xciii.

116. Persons who, after the investigation prescribed by these rules, shall not have been convicted of the offence with which they stood charged or suspected, shall be immediately released, and the expense to which they have been actually subject on account of the inquiry, shall be paid to them by the collector or other officer in charge of the abkary mehal on the part of Government. Should it further appear on investigation, that the inquiry originated in malice, or in motives clearly vexatious and unwarranted on the side of the informant, it shall be competent for the collector or other officer aforesaid to order such informant to discharge the amount of any diet money which may have been paid to the witnesses, and to pay to the party aggrieved such moderate fine, not exceeding, however, in any case, twenty rupees, as may appear reasonable, or to be confined for a period not exceeding fifteen days. Orders passed under this rule shall be enforced in the same manner as other fines imposed under the provisions of this Regulation.—Reg. XIII., 1816, sec. xciv.

117. It shall and may be lawful for the opium agents and deputy opium agents, subject to the orders of the Board of Revenue, to punish any of the native officers belonging to their establishments, as well as muhtos and other intermediate managers between the officers of Government and the opium ryots, for any neglect or breach of duty, or any act of oppression which may not appear to be such as to require the interposition of the magistrate or Criminal Courts, by a moderate fine, not exceeding in any case fifty rupees, and commutable, if not paid, into imprisonment in the Dewanny jail for a period not exceeding one month.—Reg. VII., 1824, sec. xxiii., cl. 1.

118. It shall and may be lawful for the opium agents and deputy opium agents, with the sanction of the said Board, to recover any balances or sums of money due by any opium cultivator, or by any of the subordinate officers of the factory, or by any muhto or intermediate manager, or by the surety of such cultivator, officer, or manager aforesaid, by the process of distraint and sale, in the same manner, and with the same powers as collectors of the land revenue are authorized to exercise in distraining for the recovery of rents due by ryots and other tenants in estates held khas.—Reg. VII., 1824, sec. xxiii., cl. 2.

119. It shall be the duty of the Board of Revenue to require from the officers under their control such periodical reports or returns, regarding their discharge of the duty entrusted to them under the provisions of this Regulation, as may appear to those Boards best calculated to enable them to judge whether the inquiries held by those officers on the trial of the cases cognizable by them are duly and speedily conducted, and whether the parties impleaded suffer any inconvenience which can be avoided.—Reg. XIII., 1816, sec. xcv.

120. Persons dissatisfied with the judgments passed or acts done by the collectors or other officers in charge of the abkary mehal, or by the opium agents or other officers in charge of the opium department under this Regulation, shall be at liberty to prefer an appeal, either in person or through an authorized agent, or through the medium of the collectors or other officers by whom the judgment may have been passed, by petition to the Board of Revenue; and the Board, after calling for such information as they may require from the collectors or other officers aforesaid, shall confirm or modify the judgment given, or pass such other orders on the subject as may appear to them conformable to the principles of substantial justice. Provided, however, that no such appeal shall be received, unless it shall be preferred within the period of one month after judgment shall have been passed by the collector. It shall be the duty of the collector, on any petition of appeal being presented to him for transmission to the Board, to cause the date on which it may be so presented to be endorsed on it, and to transmit the petition without delay; and whenever any party shall appeal directly to the Board, such appellant shall, within the period above prescribed, give notice of his having done so to the collector or other officer against whose decision he may have appealed.—Reg. XIII., 1816, sec. xcvi., and Reg. VII., 1824, sec. xix., cl. 2.

121. In all cases in which the opium agents or their deputies, the collectors or deputy collectors of customs, or superintendents of salt chokies, shall be entitled to any of the rewards

prescribed in this Regulation, the collector of land revenue or other officer in charge of the abkary mehal shall report the case to the Board to which he may be subject, and await their orders for the distribution and payment of the same: in other cases, in which any informer, subordinate officer of Government, shall become entitled to such reward, the collector shall adjudge and record the distribution of the same at the time of deciding the case, and if an appeal be not preferred under the provisions of the above para., he shall proceed to the payment immediately on the expiration of the period allowed for such appeal. If the case be appealed, the distribution and payment of the rewards shall rest with the authority by which the final decision may be passed.—Reg. XIII., 1816, sec. xcvii.

122. If any disputes should arise between an opium agent or any officer of Government, and any person, on any matter relative to the cultivation, provision, transportation, sale, purchase or possession of opium not provided for in this Regulation, either party is to be at liberty to apply for redress to the Courts of Civil Judicature, and the case shall be tried and decided upon under the general laws, regulations, and usages ordinarily observed in Civil Courts.—Reg. XIII., 1816, sec. xcviii.

## IMPORTATION OF OPIUM.

123. A duty at the rate of twenty-four rupees per seer of 80 tolas shall be levied upon foreign opium imported by sea into any port or place dependent on the presidency of Fort William.—Reg. XVI., 1817, Schedule Act XIV., 1836, Act V., 1849.

124. The aforesaid duty shall be paid and levied under the same rules and provisions as are applicable generally to the payment and collection of the duties denominated Government customs, on goods or merchandise imported by sea, subject, however, to the provision contained in the following rule; and any opium imported or landed in breach of the said rules and provisions shall be forfeited, two third parts to the United Company, and one third part to the person or persons who shall seize, inform, or sue for the same, and shall and may be seized as forfeited by the collector or any of the officers of the custom-house or customs, or by any of the officers of Government serving in the opium or salt department, to be by them conveyed and deposited in one of the United Company's warehouses, or other secure place.—Reg. XVI., 1817, sec. iii.

125. The proprietor or proprietors of opium imported as aforesaid may, if he or they be so disposed, instead of landing the opium so imported at the Custom-house, and paying the duty due and payable thereon, in the manner prescribed generally for the payment of the duties denominated Government customs, on goods or merchandise imported by sea, deliver it on shore at the Company's warehouse, or such other warehouse as shall be approved by the Governor-General in Council, and secure and lodge it therein without payment of duty in the first instance; provided, however, that opium so warehoused shall not be removed until the duty imposed by this Regulation shall be duly paid.—Reg. XVI., 1817, sec. iv.

126. The importers, proprietors, or consignees of opium, which shall have been lodged or secured as aforesaid, shall, within twelve calendar months, to be computed from the date of the production of the manifest at the custom-house, clear and take from and out of such warehouses or places all such opium, and shall pay the full duty imposed by this Regulation; and in case any such importers, proprietors, or consignees shall fail or neglect so to do, it shall be lawful for the Governor-General in Council, or such officer as may be duly empowered by him in this behalf, to cause all such opium to be publicly sold or exposed to sale; and after such sale the produce thereof shall first be applied to the payment of the duty imposed by this Regulation, and the overplus, if any, shall be paid to the proprietor or other persons authorized to receive the same; provided that no such opium shall be sold unless a price can be obtained for the same equal at least to the full amount of the duty aforesaid, but if such price cannot be obtained, then all such opium shall be effectually destroyed by and in the presence of such officer as the Governor-General shall appoint.—Reg. XVI., 1817, sec. v.

## SPECIAL RULES FOR CALCUTTA.*

127. With a view of better securing the duty imposed on the importation of foreign opium by sea, no person not being specially licensed by the collector of sea customs in Calcutta, or by the Board of Revenue, shall, within the city of Calcutta, have in his possession more than one pound of opium at a time, without a certificate from the secretary to the said Board, evidencing that the same has been regularly imported by sea, and paid the duty prescribed in such case, or that it has been purchased at one of the sales held on the public account in Calcutta; and any opium exceeding one pound in quantity, which may be found without such a document to protect it, or which may disagree in any respect with the certificate in the possession of individuals not being licensed as aforesaid, shall be forfeited to Government, and shall be seized by or under the warrant of the said collector, or any of the magistrates of Calcutta, and the person or persons in whose

* The rules relating to the retail sale of opium in Calcutta are the same as those for ABKARY, and will be found under that head.

possession it was found shall forfeit to Government a sum equal to three times the amount of the duty imposed on the importation of the article by sea under the Regulation aforesaid.—Reg. VII., 1824, sec. xxiv., cl. 1.

128. The certificates directed to be issued by this Regulation from the office of the Board of Revenue shall contain, besides such other particulars as to that authority may appear fit, the name of the holder, the quantity of the drug, and the purpose for which it is allowed to be retained; the number of the lot or lots as per sale book, if purchased at the Calcutta sales, with the number and mark on each of the chests, the cost of the opium per chest, and the date of the sale: and in the event of its having been imported by sea, the date and number of the opium as entered in the import registry book of the custom-house, the name of the importer, and of the ship in which it was imported; and each certificate so issued shall be separately registered by the secretary to the Board aforesaid, and shall bear the signature of that officer in evidence of its authority.—Reg. VII., 1824, sec. xxiv., cl. 2.

129. In case it shall be required to export by sea any opium so covered by a certificate, it shall be the duty of the exporter to surrender the certificate at the time of his making his export application to the collector of sea customs, and any opium passed or attempted to be passed for exportation by sea without a certificate, or which may not correspond with the certificate, shall be forfeited as aforesaid; and the person or persons in whose possession it may be found shall be liable to the penalty prescribed in the first clause of this para., for the case of the illicit possession of opium generally in Calcutta.—Reg. VII., 1824, sec. xxiv., cl. 3.

130. Certificates issued under the above rules shall be in force for one year only from their date; provided, however, that it shall be competent to the Board of Revenue to authorize their renewal for another year, and so on successively, as often as they may think proper, in the event of their being produced before the expiration of the period for which they may respectively be current. Certificates which have exceeded the term of their currency shall be considered as wholly null and void, and shall in no degree protect any opium which they may accompany.—Reg. VII., 1824, sec. xxiv., cl. 4.

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# APPENDIX.

## No. 1.

FORM of Sunnud to be granted to Persons appointed to conduct the retail sale of Opium on the part of Government.

"Whereas by the authority of the Governor-General in Council, I, A. B. have appointed C. D. to conduct the sale of opium at the shop or shops established on the part of Government at pergunnah zillah at the haut or hauts held at dependent on the above shop or shops, it is required of him, as a condition of this appointment continuing in force, that he duly and faithfully perform and abide by the following conditions:—

"That he will not adulterate the drug. That he will not be concerned directly or indirectly in the sale or traffic of opium on his account, or on the account of any other person, except that of Government. That he will not knowingly sell to the same person, in the same day, a larger quantity of opium than two tolas weight. That he will confine the sale of the drug to the above-mentioned shop intrusted to his charge, and to the above-mentioned places annexed as dependencies of the shop aforesaid. That he will not allow purchasers to remain at the shop for a longer time than may be necessary to supply them with the quantity of opium which they may respectively require. That he will not open the shop before sun-rise, nor keep it open after sun-set. That he will regularly and punctually render a true and just account of the sales made by him, after the form prescribed and at the periods directed by me.

"Given under my hand and seal, this day of 18 ."

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No. 2.

FORM of License to be granted to Persons authorized to vend Opium.

"License, No. for the sale of opium at during the year B. S. or F. S.

"Whereas by the authority of the Governor-General in Council, I, A. B., authorize C. D. to open a shop for the sale of opium in the city (town or village) of in for the year B. S. or F. S.; it is required of him, as a condition of this license remaining in force, that he duly and faithfully perform and abide by the following articles; on the breach of any of which this license shall be forfeited.

"1st. That he pay to Government a daily tax of rupees.

"2nd. That he will not adulterate the opium.

"3rd. That he will sell no opium not purchased or procured by my authority.

"4th. That he confine his sale of opium to the shop for which his license is granted, and on no account sell any opium without the limits of the above city (town or village), or establish a second shop within such limits, without taking out another license for the same.

"5th. That he prevent gaming and disorder within his shop.

"6th. That he do not harbour thieves or riotous persons, but on the contrary give information to the nearest magistrate, or police officer, of any suspected persons who may resort to his shop.

"7th. That he do not receive any goods or wearing apparel, or other property, in barter for opium.

"8th. That he do not open his shop before sun-rise, nor keep it open after sun-set, and that he do not harbour any persons in it during the night.

"9th. That he will have constantly fixed up on the outer door of his shop, a sign or board, bearing an inscription to the following effect, in the current language of the country.

"Licensed vender of opium."

"10th. That he will restore this license to be cancelled on or before the day of B. S. or F. S.

"11th. All officers of Government are hereby prohibited from imposing or exacting any tax or cess under any pretence whatever on the said C. D. on account of the said shop during the aforesaid period, beyond the tax required to be levied by the Regulations, and they are also prohibited from molesting or interrupting him in the prosecution of his profession, while he continues to conform to the above special conditions, and to the Government Regulations that relate to him.

"Given under my hand and seal this day of 18

"A. B., collector."

—Reg. XIII., 1816, Apps. 1 and 2.

# SALT.

## TABLE OF ENACTMENTS.

| Original Regulation or Act. | Para. in Consolidation. | REMARKS. |
|---|---|---|
| 1814. IV. | | Abolition of Saltpetre monopoly—unnecessary. |
| 1819. X. | | |
| I. & II. | | Omitted as unnecessary. |
| III., IV. | 1, 2 | |
| V. to XI. | 4 to 11 | |
| XII. to XVII. | 13 to 24 | |
| XVIII. | 25 | Last part omitted under Reg. XIII., 1829. |
| XIX. to XXX. | 26 to 46 | |
| XXXI. | 47 | Modifications from sec. xvi., Act XXIX., 1838, introduced. |
| XXXII. | 49 | Last part omitted, under sec. xxvii., Act XXIX., 1838, (para. 50) |
| XXXIII. | 50 | First part omitted, as superseded by sec. xxvii., Act XXIX., 1838; the last part consolidated with the modifying rule (para. 50). |
| XXXIV., XXXV. | 51, 52 | |
| XXXVI. | 54 to 62 | Last part of clause 1 omitted, and modifications of secs. xiv. and xxix., Act XXIX., 1838, and sec. ii., Act III., 1851, substituted. |
| XXXVII. to XL. | 63 to 67 | |
| XLI. | 68 | Modification in sec. ii., Reg. IV., 1832, added as para. 69. |
| XLII. to XLVIII. | 70 to 81 | Modification of Act XVI., 1848, introduced into paragraph 81. |
| XLIX., L. | | Rescinded by sec. i., Act XVI., 1848. |
| LI. to LV. | 82 to 86 | |
| LVI., LVII. | 92, 93 | |
| LVIII. | 95 | |
| LIX. to LXI. | | Rescinded by sec. i., Act XXIX., 1838. |
| LXII. | 97 | |
| LXIII. | 102 | |
| LXIV. | 103 | Modifications of sec. xxviii., Act XXIX., 1838, introduced. |
| LXV. to LXIX. | 104 to 108 | |
| LXX. | 109 | Secs. xvi. and xvii., Act XXIX., 1838. |
| LXXI.—1. | 110 | |
| 2. | | Superseded by sec. x., Act XXIX., 1838, introduced. |
| LXXII. | 116 | |
| LXXIII. | 117 | Modifications of Act XVI., 1848, introduced. |
| LXXIV. | 118 | First part superseded by sec. x., Act XXIX., 1838. |
| LXXV. to LXXXIV. | 119 to 130 | |
| LXXXV. | | Rescinded by sec. i., Act XVI., 1848. |
| LXXXVI. to LXXXVIII. | 131 to 133 | Last part of lxxxviii., repealed by Act XVI., 1837. |
| LXXXIX. | 134 | Part of clause 1 retained, and rules of sec. iv., Act IX., 1835, substituted for the rest. |
| XC. to XCII. | 138 to 140 | |
| XCIII. | | Rescinded by sec. i., Act XVI., 1848. |
| XCIV. & XCV. | 141 to 144 | |
| XCVI. to CVIII. | 146 to 158 | |
| CIX. | 159 | Modification of sec. xxxi., Act. XXIX., 1838, added. |
| CX., CXI. | 160 161 | |

| Original Regulation or Act. | Para. in Consolidation. | REMARKS. |
|---|---|---|
| 1819. X. CXII. | 162 | Modifications in sec. xxxi., Act XXIX., 1838, introduced. |
| CXIII. | 163 | |
| CXIV. | | Omitted, superseded by sec. xxxii., Act XXIX., 1838. |
| CXV. to CXX. | 167 to 178 | |
| CXXI. | 179 | Modifications in sec. xv. and xvi., Act XXIX., 1838, introduced. |
| CXXII. | | Superseded by sec. xxiii., Act XXIX., 1838. |
| CXXIII. to CXXVI. | 182 to 185 | |
| 1826. X. | | |
| II. | | Rescinded by sec. i., Act XVI., 1848. |
| III. | 53 | |
| IV. | 187 | |
| 1832. IV. | 69 | |
| 1835. IX. | | |
| I. | 2 | Introduced in paragraph 2. |
| II. | 3 | |
| III. | | Omitted as unnecessary in the consolidation. |
| IV. | 135 to 137 | Clause, omitted as unnecessary. |
| 1838. XXIX. | | |
| I. | | Omitted. |
| II. to VI. | 87 to 91 | Modifications of Act III., 1851, introduced. |
| VII. | 94 | |
| VIII. | 96 | |
| IX. to XIII. | 111 to 115 | |
| XIV. | 54 | Introduced in paragraph 54. |
| XV. | 179 | |
| XVI. | 180 | Noted also in the three sections to which it refers. |
| XVII. | 48, 109 | |
| XVIII. | 12 | |
| XIX. to XXII. | 98 to 101 | |
| XXIII. | 181 | |
| XXIV. | 55 | |
| XXV. | 145 | |
| XXVI. | | Omitted, unnecessary in consolidation. |
| XXVII. | 50 | |
| XXVIII. | 103 | Introduced at the end of para. 103. |
| XXIX., XXX. | 164, 165 | |
| XXXI. | | Noted in paras. 159 and 162. |
| XXXII. | 166 | |
| XXXIII. | 186 | |
| 1843. XIV. | | |
| IV., V. | 188, 189 | |
| 1848. XVI. | 81 | Noted in the sections to which it refers, and the sections which it rescinds omitted. |
| 1849. XIII. | 190 to 218 | |
| 1851. XIII. II. | | Noted in the sections to which it refers (paras. 87 to 92, 94, and 111). |
| III. | 54 | |

# SALT.*

*Appointment of the Salt Agents and Superintending Officers of Chokies, and oaths to be taken by those Officers.*

1. The superintendence of the provision of salt, on account of Government, shall continue to be intrusted to covenanted servants of the Company, under the official appellation of salt agents, and the Governor-General in Council reserves to himself the power of varying the number of such officers, according as he may deem fit, and of fixing the stations for their residence at his discretion.—Reg. X., 1819, sec. iii.

2. The immediate control over and charge of the several salt chokies at present established, shall, as heretofore, be ordinarily vested in civil servants of the Company, under the denomination of superintendents of salt chokies; but it shall be competent to the Governor of Bengal to vest the charge of those chokies, or any of them, in any other officer he may judge fit; and the officer so appointed shall have and exercise the same powers and duties, as it may or shall be lawful for the superintendents of salt chokies to exercise. When any person, not a covenanted civil servant, shall thus be appointed to the superintendence of a salt choky, the Governor of Bengal may limit the powers to be exercised by him in such manner as he shall be pleased to direct. It shall likewise be competent to the Governor-General in Council to order such chokies to be stationed in any district where he may deem it necessary, with a view to the suppression of illicit transactions in salt, and to vest the superintendence thereof in any officer he may deem expedient: provided, however, that a list of all chokies now established, or which may hereafter be established, shall be stuck up in a conspicuous place, at the office of the Board of Revenue, and likewise in the cutcherries of the agents and superintendents under whose control they may severally be placed.—Reg. X., 1819, sec. iv., and Act IX., 1835, sec. i.

3. When the Governor of Bengal shall appoint superintending officers of chokies without the powers of adjudication in respect to cases of alleged violation of the laws for the protection of the salt revenue, which are declared to be vested in such officers by the provisions of paragraphs 145 to 159, it shall be competent to the Governor of Bengal to invest with those powers any judicial or revenue officer of the Government, giving notice thereof in the Government "Gazette;" and every officer so invested with the said powers shall exercise the said powers in all respects as prescribed for salt agents and superintending officers of chokies.—Act IX., 1835, sec. ii.

4. Salt agents, superintendents of salt chokies, and their respective assistants and subordinate officers, shall not, without the special permission of Government, carry on, directly or indirectly, any trade, nor be concerned in any commercial transaction whatever. This prohibition is declared to extend to the purchase, directly or indirectly, of any goods or commodities in the British dominions in Bengal, for the purpose of remitting money to Europe.—Reg. X., 1819, sec. v., cl. 1.

5. Whenever any of the officers above mentioned shall be desirous of obtaining a special exemption from the operation of the above rule, he shall state in writing the nature of the commercial transactions in which he is engaged, the name or names of the place or places at which they are conducted, and the period for which he may require permission to be engaged in the concern. The orders of Government shall, in like manner, specify the nature of the concern in regard to which the exemption may be granted, the name or names of the place or places in which it is to be conducted, and the period at which the interest of such officer in such concern shall cease and determine. And the prohibition aforesaid shall, in respect to all matters, concerns, or transactions not so specified, be in full force, in like manner as if no exemption had been granted.—Reg. X., 1819, sec. v., cl. 2.

* The "Board of Revenue" has been substituted for "Board of Customs, Salt, and Opium," throughout, under the provisions of Act XLIV., 1850; and "tola" for "sicca" weight, under Reg. VII., 1833.

6. Salt agents, superintendents of salt chokies, and their respective covenanted assistants, shall, previously to entering upon the execution of the duties of their respective offices, take and subscribe the following oath before the Governor-General in Council, or any person whom he shall appoint to administer it.

"I, A. B. appointed do solemnly swear, that I will diligently and faithfully execute the duties of the office of that I will not, during the period of my being so employed, directly or indirectly, by myself or others, be concerned in any commercial transaction whatever on my own account, further than I may be specially authorized in that behalf by the Governor-General in Council, under paragraphs 4 and 5; that I will not, directly or indirectly, take or receive, or knowingly allow any other person to take or receive, any fee, present, gratuity, or advantage whatever, on account of any matter relating to the duties of my office; and that I will not, directly or indirectly, derive any advantage or emolument from my station, excepting such as now is, or may be hereafter authorized by the Governor-General in Council. So help me GOD."—Reg. X., 1819, sec. vi.

*General Rules for regulating the Conduct of Salt Agents and others employed in the Provision of Salt.*

7. No person shall be compelled, under any pretence whatever, to engage in the provision, manufacture, or transportation of salt, either as a contractor, or a labourer, or in any other capacity; and all persons who may engage in the provision, manufacture, or transportation of salt, and may not choose to re-engage, shall be at liberty to relinquish the employment, after performing the engagements into which they may have entered, and to follow any other occupation they may think proper without hinderance or molestation.—Reg. X., 1819, sec. vii.

8. If a salt agent shall compel, or use any means, or cause any of his officers or others, to compel any molunghee, byoparry, or other person to receive advances, or to contract for, or engage in the provision, manufacture, or transportation of salt, the judge of the Dewanny Adawlut, on proof of the charge to his satisfaction, shall adjudge the contract or engagement null and void, and direct the complainant to be discharged, and cause the advances, if any should have been made, to be returned by him, and award such costs and damages against the agent, as may appear to him equitable. The agent so offending shall moreover be liable to be dismissed from his office by the Governor-General in Council.—Reg. X., 1819, sec. viii.

9. If the assistant to a salt agent, whether a covenanted servant of the Company, or a European not in the Company's service, or any native officer attached to a salt agency, shall compel, or use any means, or cause any inferior officer or others to compel any molunghee, byoparry, or other person to receive advances, or to contract for or engage in the provision, manufacture, or transportation of salt, he shall on conviction before the Dewanny Adawlut, be made to pay to the complainant a sum equal to the amount of the whole of the advances which such complainant would have been entitled to receive, had he voluntarily entered into the contract or engagement, with any further compensation to which he may appear entitled, and the complainant shall be immediately discharged, and any advances that he may have received shall be taken back from him. In the cases above specified, the party offending shall be liable to be dismissed from office by the Governor-General in Council, the Board of Revenue, or salt agent, according as the appointment or removal of such officer may rest with the one or the other of the said authorities; and in all such cases it shall be the duty of the court before which such charge may be proved against any agent, assistant to an agent, or officers aforesaid, to report the circumstance to the aforesaid Board.—Reg. X., 1819, sec. ix.

10. Covenanted and uncovenanted assistants, and head officers of aurungs, shall be held responsible for any compulsion that may be used for the purposes specified in the foregoing paragraph by the gomashtahs, peons, and other persons subject to their authority, unless it shall appear that it was had recourse to without their knowledge or connivance, and that they afforded all practicable redress immediately on being apprized of the circumstance; where persons subject to the authority of such assistant or head officer shall be convicted of using such compulsion without his knowledge or connivance, besides dismission from office, they shall be liable to the same penalties as are prescribed in the preceding paragraph for cases in which the native officers attached to a salt agency may be convicted of using compulsion.—Reg. X., 1819, sec. x.

11. If any contractor, molunghee, or byoparry, having received advances or entered into engagements for the provision of salt, shall be convicted before the Dewanny Adawlut of compelling, directly or indirectly, any labourer, or other person, to receive advances, or to engage in the manufacture, he shall, on conviction before the Dewanny Adawlut, be liable to the same penalty, with the exception of dismission from office, as is directed to be inflicted in the cases specified in paragraph 9. And that no contractor, molunghee or byoparry, may plead ignorance

of the above rule, a clause to the effect thereof shall be inserted in their contracts.—Reg. X., 1819, sec. xi.

12. It shall be lawful for any salt agent to proceed for the recovery of any balance that may be due to Government within the year, upon any contract made for the manufacture of salt in the limits of his agency, by the process of distraint; and for the demand and levy of the same, to exercise the powers vested by the Regulations and Acts of the Government in zemindars and sudder farmers, being subject to like restrictions, and with the like remedies to any parties aggrieved thereby.—Act XXIX., 1838, sec. xviii.

13. In concluding contracts with molunghees, or byoparries, and others, for the provision of salt, in making advances to those persons, and in the general conduct of the duties of their office, the salt agents shall be guided by the practice heretofore observed, and by such further instructions as they may receive from the Board of Revenue, or from Government.—Reg. X., 1819, sec. xii.

*Rules for subjecting the Officers of Government in the Salt Department to the Cognizance of the Civil Courts of Judicature, and for defining the Process to be observed in Suits in which those Officers and other Persons concerned in the Manufacture of Salt, on account of Government, may be Parties; or in which the attendance of such Persons may be required by the Courts of Judicature.*

14. The salt agents and their assistants, whether covenanted servants of the Company, or Europeans not in the Company's service, and their native officers, are declared liable to be sued in the manner hereinafter described in the Dewanny Adawlut for any breach of this Regulation, or any other Regulation. Provided also, that the rules contained in Regulation II. 1814, shall be applicable to all suits or complaints preferred against salt agents and superintendents of salt chokies, in so far as those officers are amenable to the Civil Courts for acts done in their official capacity; provided, however, that the provisions of this section shall not be held applicable to acts done by salt agents in virtue of the judicial powers vested in them by this Regulation, in regard to fines, confiscations, and other penalties prescribed for illicit manufacture, importation, transportation, sale, purchase, or possession of salt.—Reg. X., 1819, sec. xiii., cl. 1.

15. During the manufacturing season, viz., from the middle of the month of October to the middle of July, if any molunghee, or labourer, or any other person, who may be employed in the salt manufacture, shall deem himself aggrieved by any act or order of the agent himself (not being an act or order done under the powers vested in agents by this Regulation, in cases hereafter declared to be judicially cognizable by agents and superintendents of salt chokies), he shall, in the first instance, state his complaint in person, or by vakeel, to the agent, and in the event of the agent refusing to afford him the required redress, or of his omitting to grant it within a reasonable time, the complainant shall be at liberty to sue him in the Dewanny Adawlut.—Reg. X., 1819, sec. xiii., cl. 2.

16. During the manufacturing season, if a molunghee, or labourer, or any other person, who may be employed in the salt manufacture, shall deem himself aggrieved by any act of the assistant to the agent, or any officer attached to a salt agency, or by any contractor, molunghee, or byoparry, he shall, in the first instance, state his complaint in person, or by vakeel, to the agent, in order that the agent may give such redress as it may be in his power to afford: but if the agent shall refuse to afford to the complainant the required redress, or omit to grant it within a reasonable time; or if the case be such as that the agent may not have it in his power to redress the injury received, the complainant shall be at liberty to sue in the Dewanny Adawlut the party from whom he may have sustained the injury, or the agent, if the act shall have been done under his orders, and the court shall hold the party, or the agent, responsible accordingly.—Reg. X., 1819, sec. xiii., cl. 3.

17. In the cases specified in the two preceding paragraphs, the courts are not to receive the suit of the complainant, unless he shall prove, either by oath, affirmation, or in any other mode which the court may deem satisfactory, that he made the previous application for redress to the agent, as directed in those paragraphs.—Reg. X., 1819, sec. xiii., cl. 4.

18. In the several cases specified in paragraphs 15 and 16, the complainant, if the engagements which he may have entered into on account of the manufacture be not completed, shall not quit the place of manufacture, to prosecute his complaint in person, without the permission of the head officer of the aurung under which he may work, or of the agent or assistant, but shall employ a vakeel for that purpose, unless he shall offer to substitute a person to perform his work in his room, and the agent, or his assistant, or the head officer of the aurung, shall be of opinion that the work will be equally well performed by the person so offered to be substituted; in which case the agent or his assistant, or officer, shall permit the complainant to depart.—Reg. X., 1819, sec. xiii., cl. 5.

19. The agents are authorized, in cases in which they may deem it advisable so to do, to

undertake the defence of any suit that may be instituted in the Dewanny Adawlut against their assistants, or any of their officers, or other persons employed by them in the business of the manufacture; but in such cases the agent himself is to be considered as responsible for the decree of the court.—Reg. X., 1819, sec. xiii., cl. 6.

20. During the months of Sawun, Bhadoon, and Assin, molunghees, labourers, and all other persons having entered into engagements on account of the salt manufacture, or having been employed in it, who may consider themselves aggrieved by any acts done by the agent or his assistant, or any of his officers, or other persons employed by him, in breach of this or any other Regulation, are declared to have the option of suing either in person, or by vakeel, the party from whom they may have sustained the injury, in the Dewanny Adawlut, without preferring the previous application for redress, directed in the six preceding paragraphs, to be made during the manufacturing season; and further, with a view to insure the molunghees, labourers, and other persons engaged in the manufacture or transportation of salt, speedy redress of injuries they may sustain, the courts are required to bring the suits instituted by the said persons for injuries sustained by them from the officers aforesaid, to a termination as expeditiously as possible, by trying them in preference to other suits: provided, however, that nothing in the six preceding paragraphs shall be construed to empower the Courts of Judicature to take cognizance of acts done by salt agents, in virtue of the judicial powers vested in them by this Regulation, in respect to fines, confiscations, and other penalties prescribed for cases of illicit dealings in salt.—Reg. X., 1819, sec. xiii., cl. 7.

21. To prevent persons who may voluntarily receive advances and give a receipt for the amount, afterwards declaring that they were compelled to receive the advances (or in order to get released from their engagements), the courts, in the event of any complaint being made to them by or on behalf of a molunghee, labourer, or other person, that he was compelled to receive advances, are directed, excepting in cases in which they may have full and satisfactory evidence before them that compulsion was used, to consider the receipt as evidence primâ facie of the advances having been voluntarily received, and they shall not release the complainant from his engagements, or prevent his proceeding to the place of manufacture, should he not have proceeded there, nor bring him from thence, should he have repaired thither, until they shall have completed the trial of the complainant, and shall be satisfied that the engagement was compulsive and repugnant to this Regulation. The agents are to apply this rule in similar complaints that may be preferred to them.—Reg. X., 1819, sec. xiv.

22. When any process or order shall be issued by the Courts of Civil Judicature, or the magistrates, to a salt agent or his assistant, the court is to forward it under a sealed cover, addressed to the agent or assistant, and superscribed with his official attestation. The agent, or his assistant, is immediately to acknowledge the receipt of the order or process, by an endorsement to that effect on the back of it, and is to return it under a sealed cover, addressed to the judge.—Reg. X., 1819, sec. xv.

23. The agents, their covenanted and uncovenanted assistants, and head officers of aurungs, shall not be liable to prosecution for any official acts of their predecessors. But persons who may be removed from an agency, or an assistantship, or the appointment of head officer of an aurung, are to carry on in the same manner as if they had continued in office, all suits instituted against them in their official capacity, unless the Board of Revenue, upon a consideration of the circumstances of the cases, shall deem it advisable to order the agent for the time being to carry on the suits. This rule, however, is not to extend to suits in which an agent, or a covenanted or uncovenanted assistant, or head officer of an aurung, who may have been removed, shall have been engaged in virtue of the orders from the Board of Revenue, or the Governor-General in Council. All such suits are to be carried on by the agent for the time being, at the risk of Government.—Reg. X., 1819, sec. xvi.

24. To facilitate the communication between the agents and their assistants, and head officers of aurungs and the vakeels in the Zillah or City Courts, and the Sudder Dewanny Adawlut, who may be intrusted with the conduct of any suits or appeals in which they may be engaged in their official capacity, either whilst they may continue in the office, or after their removal from it, they are permitted to forward, free of postage, any instructions which they may have occasion to transmit to the vakeels of those courts. The instructions are to be enclosed under a sealed cover, directed to the vakeel. The instructions so sealed and directed are to be transmitted, under a sealed cover, addressed to the court in which the cause may be depending, and are to be superscribed with the name and the official designation of the person despatching them, or that which he bore when the cause of action arose. The court, immediately on receiving the instructions, is to deliver them sealed to the vakeel to whom they may be directed. In like manner, the vakeels in any of the courts to whom the pleading of such suits or appeals may be committed under this Regulation, by persons holding or having held the office of agent, assistant, or head officer of an aurung, are authorized, either whilst their constituents remain in such office, or after they shall have been removed from it, to forward any papers which they may have to convey to their

constituents by the public dawk, free of postage. The papers are to be enclosed in a cover, sealed with the seal of the vakeel, and the judge of the court is to transmit the papers so sealed in a cover, addressed to the person to whom they are to be forwarded, and subscribe the cover with his official signature.—Reg. X., 1819, sec. xvii.

25. In cases in which the Board of Revenue may judge it expedient, or in which they may receive orders for the purpose from the Governor-General in Council, they shall take upon themselves the superintendence of the prosecution, or defence of any suit or appeal in which they or their officers may be engaged, either in a Zillah or City Court, or the Sudder Dewanny Adawlut, instead of leaving the superintendence of the conduct of the suit, or appeal, to the agent, or any other officer.—Reg. X., 1819, sec. xviii.

26. Persons actually employed in the salt manufacture, who cultivate or rent lands, are to pay according to their pottahs or engagements, in the same manner as other ryots or renters, and under the same rules and Regulations, with the exceptions specified in paragraph 28, as to the mode of demanding and enforcing payment of arrears during the manufacturing season, which is to be considered as commencing on the first day of Kautic, and ending on the last day of Assar. —Reg. X., 1819, sec. xix.

27. To prevent unnecessary interruption to the manufacture, and at the same time that persons employed in it may not withhold the rents justly due from them for lands which they may rent or cultivate, the following rules are prescribed.—Reg. X., 1819, sec. xx., cl. 1.

28. From the beginning of Kautic to the end of Assar, no person under engagements, and employed in the salt manufacture, shall be liable to be arrested for a demand of rent, nor to be summoned to the cutcherry of any proprietor, or farmer of land, or any person holding or entrusted with the collection of the rents or revenue of lands, or the management thereof, under any pretence whatever. If any such proprietors, farmers, or other persons aforesaid, shall have a claim for or relating to rent on any person so engaged and employed, and shall be desirous of enforcing it during the period above mentioned, they shall either distrain for the amount, under the existing regulations for levying distress for the recovery of arrears of land rent, or sue the stated defaulter for it in the Dewanny Adawlut, or state their claim in writing to the agent, who, if he shall deem it expedient so to do, shall cause the stated defaulter to satisfy it himself, and stop the amount by kistbundy from his future advances, so that his labour on account of the manufacture may not be interrupted. If the claimant shall prefer applying in the first instance to the agent, and he shall not afford satisfaction for the claim, the claimant must distrain, or commence a civil prosecution, as above pointed out. But the salt advances, or implements belonging to the Company in the hands of the defaulter, shall not be held liable for the claim, nor shall they under any pretence whatsoever be distrained, seized, sold, or otherwise disposed of by the claimant or by the court, in satisfaction of his demand.—Reg. X., 1819, sec. xx., cl. 2.

29. Persons instituting suits in the Dewanny Adawlut against any of the officers of the agents, or any individuals under engagements, on account of the salt manufacture, and employed therein, are to specify their being so engaged and employed. If the notice or summons is to be served during the months of Sawun, Bhadoon, and Assin, it shall be served on the defendant, in the same manner as on other defendants not employed in the salt manufacture. If the notice or summons is to be served between the commencement of Kautic and the end of Assar, the notice or summons, with a copy of the complaint, shall be enclosed in a sealed cover addressed to the agent, and superscribed with the official signature of the judge. It shall be at the option of the agent to execute, or to cause one of his officers, or any other person whom he may think proper, to execute the security required from the defendants, in cases in which such security may be considered necessary, or to leave the party to find the required security; and in the latter case, and in the event of the summons being committed to an officer of the court, if the officer shall entertain doubts of the responsibility of the surety so offered, and the agent shall declare such security to be responsible, the officer shall accept the security. If a requisition of security for appearance should be made, and the agent should not deem it expedient to order any of his officers or any other person to become security, and the defendant himself should not be able to find such security as the agent may deem responsible, the agent is to cause the party summoned to accompany the officer of the court to the court, or if the summons shall not have been committed to the charge of an officer, he shall cause him to be conveyed before the court.—Reg. X., 1819, sec. xxi., cl. 1.

30. The salt agents are to empower their respective assistants, whether covenanted servants of the Company or European uncovenanted assistants, and also an authorized vakeel of the Dewanny Adawlut, or any other person whom the agents may think it proper to station at the place at which the court may be held, to execute the securities specified in the preceding paragraph for persons employed in the salt manufacture. The agents are to be careful to keep the judge furnished with a list of the persons so empowered, specifying also the place at which they may usually reside; and the judges are authorized in instances in which they may deem it proper, either from the distance of the place of abode of the agent from the place at which the person

to be summoned may reside, or other circumstances, to order the summons to be enclosed to one of the persons so empowered to become security, instead of transmitting it to the agent himself under the preceding paragraph; in which case such person shall proceed in the manner prescribed to the agent where the summons may be sent immediately to him.—Reg. X., 1819, sec. xxi., cl. 2.

31. If a suit should be preferred in the Dewanny Adawlut against any of the officers of the agents, or any person under engagements on account of the salt manufacture, and employed therein, without specifying that he is so engaged and employed, and a notice or a summons shall in consequence be ordered to be served on him in the same manner as on other defendants, between the commencement of Kautic and the end of Assar, the officer serving the notice or summons, on the circumstance of the defendant being so employed being notified to him by the agent or any of his officers, or by the defendant himself, shall deliver such notice or summons to the nearest person empowered to execute securities, whether the agent or his covenanted or uncovenanted assistants, or the head officer of an aurung, who shall proceed in the manner prescribed to the agent in paragraph 29. If an officer charged with a summons against any person of the above description shall receive the notification of the defendant being employed in the manufacture from the defendant only, and shall entertain doubts of his being so employed; or if he shall not entertain any such doubts, but shall apprehend that he will abscond whilst he (the officer) is repairing with the summons to the person empowered to execute the securities, he shall in such case carry the defendant with the summons to the person so empowered, and shall not release his person until the required securities have been executed.—Reg. X., 1819, sec. xxi., cl. 3.

32. In cases in which a person under engagements on account of the salt manufacture, and employed therein, shall be charged before the magistrate with a bailable offence, and the warrant shall be ordered to be served at any period between the commencement of the month of Kautic and the end of Assar, the warrant shall be served in the manner directed in the three preceding paragraphs with regard to summonses in civil cases, with this difference, that the warrant shall require the party summoned to appear in person, or by vakeel, as the magistrate may think proper, either during or after the manufacturing season, and shall specify the sum for which the security or recognizance for the appearance of the defendant is to be given; the amount of which shall be regulated by the magistrate according to the nature of the offence, and the situation and circumstances in life of the defendant.—Reg. X., 1819, sec. xxi., cl. 4.

33. In all the cases specified in the four preceding paragraphs, the agent or his covenanted or uncovenanted assistants, or head officer, through whom the summons or warrant may be served, shall note on the back of it in what manner it has been served, and by whom the security has been executed.—Reg. X., 1819, sec. xxi., cl. 5.

34. If a charge shall be preferred to a magistrate against any of the officers of the agents, or any person under engagements on account of the salt manufacture, and employed therein, for an offence that is not bailable, and there shall appear to the magistrate sufficient ground for apprehending the person so charged, the warrant for his apprehension shall require him to appear immediately in person, and shall be executed at all times in the same manner as upon persons not so engaged or employed. But the officer, after securing the offender, is to give notice thereof to the agent or head officer of the nearest aurung, or place of manufacture.—Reg. X., 1819, sec. xxi., cl. 6.

35. In all cases in which the agents or their head officers, empowered for that purpose, shall become surety under any of the six preceding paragraphs for the appearance of any officer or person employed in the salt manufacture, or shall declare any person whom the party summoned may offer as surety to be responsible, the agent is to be considered personally answerable for the due performance of the conditions of the security, in the event of the party for whom the security may be given not performing them himself, or where the party himself shall have given the security, and it shall have been declared responsible by the agent or his officers, in the event of the party or such surety not performing them. It will accordingly be the business of the agents to take care to employ creditable persons only as head officers to superintend the business of the aurungs and to become security, and to furnish them with proper instructions, and to take such security from them as they (the agents) may deem sufficient to indemnify themselves for the consequences that may result from any abuse which such officers may commit in the exercise of their trust.—Reg. X., 1819, sec. xxi., cl. 7.

36. Notices to officers or other persons employed in the salt manufacture to appear as witnesses, shall be served, during the manufacturing season, in the same manner as if they were parties in the cause; but the judges are to be careful not to issue notices to such officers or persons, excepting when their attendance shall be necessary; and on their appearance to have them examined and dismissed with all practicable dispatch, so that they may be absent from the business of the manufacture as short a time as possible.—Reg. X., 1819, sec. xxi., cl. 8.

37. The agents, their assistants, uncovenanted European and native officers, are declared liable to be sued in the Dewanny Adawlut, should they apply any of the rules in the eight

preceding paragraphs, regarding notices, summonses, and warrants, issued against persons employed in the manufacture of salt, to persons not bonâ fide so employed; and as the rules contained in those paragraphs are intended only to prevent unnecessary interruptions to the manufacture, where it can be avoided without impeding the course of justice, the judges and magistrates are empowered in particular cases, in which it may appear to them indispensably necessary for the purposes of justice, to order the personal attendance of any native officer or person in anywise concerned or employed in the salt manufacture, whether he may be a party or a witness in the suit or prosecution, at any time during the manufacturing season, notwithstanding anything that may be said to the contrary in those paragraphs, and to cause process to be executed upon him for that purpose, in the same manner as upon other individuals; but in such cases the judges and magistrates are to record on their proceedings, their reasons for deviating from the provisions contained in the said paragraphs, which are to be considered as the general rules for issuing and executing such notices, summonses, and warrants; and in the notice, summons, or warrant, they are to specify that it has been specially ordered to be so executed in virtue of the discretionary power vested in them by this paragraph, and they are moreover strictly enjoined to refrain from every unnecessary exercise of that power.—Reg. X., 1819, sec. xxi., cl. 9.

38. If a decree shall be passed against a native officer, or any person under engagements on account of the salt manufacture, and actually employed in it, and the court shall order the decree to be enforced at any time between the commencement of Kautic and the end of Assar, recourse may be had to his property, but his person shall not be attached or molested during that period. At the close, however, of the manufacturing season, the agent shall be responsible for his appearing before the court, if required, but the salt, or the advances, or any implements belonging to the Company, which may be in his hands shall not be liable for the decree; but during Sawun, Bhadoon, and Assin, and also in the manufacturing season, if the salt agent shall signify to the judge, through an authorized vakeel of the court, that their attendance is not required in the business of the manufacture, the persons of all such individuals so employed shall be equally liable with their property for decrees.—Reg. X., 1819, sec. xxii.

39. Superintending officers of the chokies are to be careful to keep the several judges and magistrates, in whose jurisdictions the chokies are stationed, furnished with the lists of the chokies, pointing out their situations, and specifying the names of the officers attached to them; and in the event of any change taking place in the situation of a choky, or among the officers belonging to a choky, the same shall be immediately notified to the judge.—Reg. X., 1819, sec. xxiii.

40. Persons instituting suits in the Dewanny Adawlut against any of the officers of the salt chokies are to specify the nature of their employment; and the notice or summons to be served upon such officers, with copy of the complaint against them, shall be enclosed in a sealed cover to the superintendent of the choky to which the party may be attached, who will, without delay, cause the notice to be served in the regular manner, or send persons to take charge of the choky, and cause the party when summoned to accompany the officer of the court to the court, or if the summons shall not have been committed to the charge of an officer, he chall cause such party to be conveyed before the court.—Reg. X., 1819, sec. xxiv.

41. In cases in which an officer of a salt choky shall be charged before a magistrate with a bailable offence, the warrant shall be served in the manner directed in the preceding paragraph with regard to the summons, and the party to whom the warrant may be sent under cover, shall cause the officer summoned to give the requisite bail, or immediately to appear in person, or by vakeel, as the magistrate may think proper to require in the warrant.—Reg. X., 1819, sec. xxv.

42. If a charge shall be preferred to a magistrate on oath or affirmation against any of the officers of the chokies, for an offence that is not bailable under the Regulations, and there shall appear to the magistrate sufficient ground for apprehending the persons so charged, the warrant for their apprehension shall be executed at all times in the same manner as upon persons not choky officers. But the officer of the court, after securing the offender, is to give notice thereof to the superintendent of the choky to which the offender is attached.—Reg. X., 1819, sec. xxvi.

43. Requisitions to officers of the salt chokies to appear as witnesses shall be served in the manner above prescribed in paragraph 40, but the judges are to be careful not to summon such officers, excepting when their attendance shall be necessary, and on their appearance they are to have them examined and dismissed with all practicable dispatch, so that they may be absent from their chokies as short a time as possible.—Reg. X., 1819, sec. xxvii.

44. The discretionary power granted by the thirty-seventh paragraph to judges and magistrates in special cases of persons concerned in the provision of salt under a salt agent, is hereby declared to be equally vested in those authorities, in regard to persons employed in the choky department.—Reg. X., 1819, sec. xxviii.

45. If a decree shall be passed against an officer of a salt choky, and the court shall order the decree to be enforced, recourse may be had to his property; but his person, if attached, shall not be removed without previous notice being given to the party under whose superintendence the

officer acts, that another person may be immediately deputed to take charge of his place during his absence.—Reg. X., 1819, sec. xxix.

*Penalties to which all Persons concerned in or conniving at the illicit Manufacture of Salt shall be subject.*

46. Alimentary salt shall not be made in the provinces of Bengal, Behar, or Orissa, excepting on account of Government, or with their sanction; and all salt made in breach of this Regulation shall be forfeited, and the parties offending shall be liable to the penalties hereinafter prescribed. —Reg. X., 1819, sec. xxx.

47. Any person who shall manufacture salt in opposition to the above prohibition, or shall, directly or indirectly, be concerned in, or in any way encourage or promote such illicit manufacture, shall forfeit for each khalary or salt-work established by him or with his connivance, such sum, not exceeding rupees five hundred, as may appear reasonable and sufficient with reference to the circumstances of the case and the condition in life of the offender; and each fire or fire-place applied, used, or prepared for the manufacture of salt, shall be held to constitute a separate khalary within the meaning and intent of this Regulation. In addition to the above penalties, the offender shall be liable to imprisonment in the foujdary jail for a period not exceeding six months, which sentence shall be adjudicated in like manner as the fine.—Reg. X., 1819, sec. xxxi., and Act XXIX., 1838, sec. xvi.

48. When any person shall be convicted of gang smuggling, or of any of the offences described in the preceding paragraph, after having been previously convicted of a like offence, he shall be sentenced, in addition to the penalty attaching to such offence, to imprisonment in the foujdary jail for a period of six months; and a like punishment of six months' imprisonment shall be incurred, in addition to the punishment which may be inflicted for a first offence, upon every subsequent conviction after the second.—Act XXIX., 1838, sec. xvii.

49. All zemindars, talookdars, and other proprietors of land, whether malguzary or la-khiraj; all sudder farmers and under-renters of land of every description; all dependent talookdars; all naibs, gomashtas, and other local agents; all sezawals, tehsildars, and other native officers employed in the collection of the revenue and rents of lands on the part of Government, or the Court of Wards, are hereby declared accountable for preventing, to the utmost of their power, the illicit manufacture of salt within the limits of the estate or farm held or managed by them.—Reg. X., 1819, sec. xxxii.

50. It shall be the duty of every party under direct engagements with Government for the land revenue, either as a proprietor or farmer, and of every proprietor of la-khiraj lands upon whose zemindary, farm, or la-khiraj estate there shall be any works producing salt otherwise than under contract with a salt agent or on account of Government, to give notice of the same in writing to the nearest public officer of police or land revenue, or of the salt department, within ten days from the date on which the works were first prepared; and in like manner it shall be the duty of every person employed in the collection of the land revenue of any mehaul on the part of Government, or of the Court of Wards, or of joint proprietors, to give like notice in respect to salt manufactured on the lands under their management; and every such proprietor, farmer, proprietor of la-khiraj estate or manager, who shall knowingly omit to give such notice, shall be liable, on conviction before the judge of any zillah or city, to a fine of 500 rupees, for every khalary or salt-work established on his lands; and such knowledge shall not be required to be established by direct proof, but may be inferred from circumstances, at the discretion of the judge deciding the case; and any fine that may be adjudged under this paragraph shall be recoverable by distress and sale of the goods and chattels of the offender, or by process of execution taken out by any salt agent or superintendent of chokies in the manner provided for decrees of the Civil Courts. If the party offending be an officer of Government, he shall, in addition to the above penalties, be further subject to dismission from office; provided also, that all zemindars, managing their estates through gomashtas or other agents, shall be subject to the same penalty for any neglect or connivance on the part of such agents, as if they had themselves been guilty of the offence.—Act XXIX., 1838, sec. xxvii., and Reg. X., 1819, sec. xxxiii.

51. All native officers of Government of whatever description, including all chokydars, pykes, and other officers of village police, are hereby strictly enjoined to assist in suppressing the illicit manufacture of salt, by giving instant information to the authority to whom they are immediately subordinate, whenever it may come to their knowledge that any illicit khalary or salt-work has been or is about to be established in any village or villages; and if any officer aforesaid shall neglect to give information as above directed, or shall in any respect connive at the illicit manufacture of salt, such officer shall, besides being liable to dismission from office, be further subject on conviction to the payment of a fine not exceeding five hundred rupees for each khalary or salt-work established or worked with his knowledge or connivance.—Reg. X., 1819, sec. xxxiv.

52. Magistrates, or other authorities who may receive information of the establishment of any illicit khalary, shall immediately transmit the information so received to the nearest salt agent or superintendent of salt chokies.—Reg. X., 1819, sec. xxxv.

53. The manufacture within the province of Bengal, Behar, and Orissa, of noon-chye, or any description of saline substance used as a condiment with food (excepting on account of Government or with its sanction), is and shall be considered to be a violation of the rule contained in para. 46; any place prepared for the reception or evaporation of salt-water, or the collection of earth or other matter impregnated with salt, for the purpose of manufacturing salt or any saline substance as aforesaid, shall be held to constitute a salt-work, within the meaning of paras. 47, 49, 50, 51, 52 And the manufacture, importation, transportation, possession, sale, and purchase of any saline substance, as aforesaid, shall be and be held liable to the same rules, restrictions, and penalties as attach to manufacture, importation, transportation, possession, sale, or purchase of ordinary alimentary salt.—Reg. X., 1826, sec. iii.

*Rules regarding the Transportation and Sale of Salt.*

54. All salt exceeding in quantity five seers, of eighty tolas to the seer, not being salt actually belonging to Government, which may be found within the limits of the salt chokies established in the provinces of Bengal or Orissa, not covered by a rowannah or char chitty, nor protected by a special pass from the Board of Revenue, shall be held to be contraband, and as such shall be seized and confiscated; and all persons found in the act of conveying salt without rowannah, or other protecting document, exceeding in quantity five seers, of eighty tolas to the seer, within the tract of country in Bengal or Orissa, wherein the transportation of salt is prohibited unless so protected, and also all persons found carrying salt so unprotected, in gangs or companies, which salt in the whole quantity exceeds ten seers, shall, as well as the owners thereof, be liable to a fine not exceeding five rupees per maund for each and every maund of contraband salt so seized and confiscated; provided also, that if any despatch of salt, covered by a rowannah or other document aforesaid, shall be laden on more than one boat, or more than one karroo of bullocks, then and in that case there shall be required, in addition to the rowannah or char chitty or special pass, from the Board of Revenue, a separate chellaun for each and every one of such boats or karroos of bullocks on which the salt may be laden; and any salt found under the above circumstances, unaccompanied with the said document, shall be seized and confiscated, together with the boats or bullocks on which it may be laden.—Reg. X., 1819, sec. xxxvi., cl. 1; Act XXIX., 1838, sec. xiv.; and Act III., 1851.

55. When parties shall be convicted of the illegal possession or transportation of salt, and shall be liable to the penalty of five rupees per maund, as prescribed in the preceding paragraph, the fine shall be at the said rate according to the quantity of salt seized, whether less or more than one maund, and each one of the smugglers in company, or parties to the fraud on the revenue, shall be liable to the whole fine.—Act XXIX., 1838, sec. xxiv.

56. Rowannahs granted to the purchasers of salt at the public sales shall have affixed to them the seal of the salt office, and the signature of the secretary to the Board of Revenue, or one of the covenanted assistants attached to that Board; they shall specify the quantity of salt intended to be transported under them, the date of the sale, and the number of the lot in part or in full of which the salt is deliverable, the name of the purchaser, the place whence the salt is deliverable, the mode of conveyance, the place to which the salt is to be transported, and the route by which it shall be conveyed; such rowannahs are to be current for only one year from their date, after which they shall be wholly null and void, and shall in no degree protect any salt which they may accompany; provided, however, that if the owner of any salt covered by or specified in a rowannah, and which shall not have been consumed or exported beyond the limits of the chokies, shall within the said period of one year apply to the Board of Revenue for a renewed rowannah, the Board shall grant such rowannah for a further period of one year, on being satisfied of the existence and identity of the salt; and it shall likewise be competent to the Board aforesaid to grant, under similar conditions, renewed rowannahs for such further successive periods of one year as to them shall seem fit, or to refuse the renewal, and on the expiration of the second year from the date of the original rowannah, to pass such orders in regard to the disposal of the salt as they may judge proper, whether the same be lodged in the Company's golahs or otherwise. Renewed rowannahs shall of course contain the same particulars as those specified in the original rowannah above described, with a reference also to the registered number of the said original rowannah.—Reg. X., 1819, sec. xxxvi., cl. 2.

57. Should the purchaser or proprietor of salt be desirous of dividing the lot, covered by a rowannah or exchange rowannah, into two or more despatches, of quantities exceeding one hundred maunds each, he shall as heretofore be entitled, on application to the Board of Revenue, to receive

as many exchange rowannahs as he may require, subject to the conditions above specified in the case of renewed rowannahs.—Reg. X., 1819, sec. xxxvi., cl. 3.

58. The chellaun in all practical cases shall be signed by the agent or other European officer in charge of the golahs, as well as by the darogah or other head native officer of the golah station at which the salt shall be delivered. The chellaun shall specify the quantity of salt laden on the boat, vessel, or karroo of bullocks, the date of the sale, and number of the lot in part or in full of which the salt is delivered, the name of the original purchaser at the sale, and of the present proprietor of the salt, the number of the rowannah by which the salt is covered, and the total quantity of salt covered by the same, the name of the gomashtah who shall receive the salt, of the proprietor of the boat, vessel, or karroo of bullocks on which the salt shall be laden, and of the manjee, serang, or sirdar in charge of such boat, vessel, or karroo, the description, burthen, and number of oars of the boat or vessel, and the number of bullocks in the karroo, also the place of destination of the salt.—Reg. X., 1819, sec. xxxvi., cl. 4.

59. A char chitty should have affixed to it the signature of the darogah or mohurrir of the salt choky from whence it was issued, and should specify the quantity of salt covered by it, which quantity must be less than one hundred maunds of eighty tola weight to the seer, and also the time for which it is current, which is never to exceed six months; the char chitties should further specify the number of the rowannah from which the salt is written off, and the limits within which the salt is to be sold.—Reg. X., 1819, sec. xxxvi., cl. 5.

60. Char chitties shall be current only within the limits subject to the control of the darogah by whom they shall have been granted, and shall not cover salt in its transit through the chokies subordinate to any other darogah.—Reg. X., 1819, sec. xxxvi., cl. 6.

61. Should any person be desirous of consigning or carrying a despatch of salt not exceeding one hundred maunds, being part of a lot covered by a rowannah, renewed or exchange rowannah, to any place beyond the line of the chokies within which the salt may be stored, he shall, on identifying the salt, be furnished by the darogah of the chokies with an atrafee rowannah to protect it in its passage to the place of its destination; the currency of an atrafee rowannah shall in no case exceed the period of six months.—Reg. X., 1819, sec. xxxvi., cl. 7.

62. The several darogahs shall be supplied with such number of atrafee rowannahs as may be found requisite from the salt office, and all such documents shall, previously to their being issued to the darogahs, be duly registered, signed, and sealed by the secretary to the Board of Revenue, or one of the covenanted assistants attached to the Board, in the mode which is now observed in regard to all rowannahs renewed, and exchange rowannahs.—Reg. X., 1819, sec. xxxvi., cl. 8.

63. The agents of the different salt divisions and other officers in charge of the Honourable Company's salt, shall furnish the proprietors of salt that shall be cleared out from any of the golah stations under their respective charge, or the agents of such proprietor, with a chellaun for every boat, vessel, or karroo, or division of bullocks, that may be laden with salt.—Reg. X., 1819, sec. xxxvii., cl. 1.

64. The proprietor of the salt, or the person receiving the same from the golah stations on his account, shall certify at the foot of the chellaun that it has been duly and correctly drawn up.—Reg. X., 1819, sec. xxxvii., cl. 2.

65. All persons in charge of salt are required to keep their chellauns constantly on board of their boats or vessels, or with the bullocks on which the salt described in the chellauns may be laden, to produce the chellauns at a moment's warning to any officer of Government duly authorized to attach illicit salt, who may demand a sight of them. And it is hereby declared, that any salt laden on any boat, vessel, or karroo of bullocks, which may be attached, for which a proper chellaun shall not be instantly produced, or the chellaun accompanying which shall not correspond in every particular with the salt, and also with the rowannah covering the salt, shall be confiscated; and if in any case the rowannah, stated to cover a despatch of salt, shall not be produced within twenty-four hours after being required by an officer authorized as aforesaid, the salt shall be held to be contraband and confiscated as such, unless the most satisfactory reasons be assigned for the delay in the production of the rowannah; provided also, that in any cases in which a small despatch of salt conveyed in a single boat, or by a single karroo of bullocks, shall be covered by a rowannah or atrafee rowannah without being accompanied by a chellaun, the rowannah or atrafee rowannah shall always be kept with the salt which it covers, and any delay in producing it, on the requisition of an officer authorized to attach illicit salt, shall render the salt which it purports to protect liable to confiscation as contraband, unless the cause of the delay be explained; provided also, that in the several cases above specified, the person or persons in whose possession the salt may be found, shall be liable to the same penalty as is prescribed by paras. 54 and 55 for the illicit possession of salt.—Reg. X., 1819, sec. xxxviii.

66. Darogahs of salt chokies shall personally examine and coot all despatches of salt passing their respective chokies, and after having ascertained that the salt and boats and vessels correspond with the description given of them in the respective passes belonging to them, they shall

certify the same, together with the date of the examination, on the back of the chellauns. The said darogahs are prohibited from deputing peons or other inferior officers to execute the duty of cooting and examining the salt, and from causing the chellauns, or other documents by which the salt is covered, in any case, or under any pretence whatsoever, to be removed from on board the boat or vessel containing the salt.—Reg. X., 1819, sec. xxxix.

67. No salt which may have been transported beyond the limits of the chokies shall be again brought within those limits excepting under a fresh rowannah granted specially for the purpose, under the authority of the Board of Revenue, by the secretary or some other covenanted officer attached to the Board. Any salt brought within the limits of the salt chokies, in violation of the above prohibition, shall be forfeited; and the parties in whose possession it may be found shall be liable to the penalty prescribed in paragraphs 54 and 55, for the illicit possession of salt; provided also, that it shall be competent to the said Board to withhold or grant such rowannahs as they may in each instance see fit.—Reg. X., 1819, sec. xl.

68. If any person shall attempt to transport within the limits specified in paragraph 54, by land or by water, under a rowannah, chellaun, renewed or exchange rowannah, atrafee rowannah, or special pass from the Board of Revenue, a greater quantity of salt than shall be specified in the rowannah, or other document aforesaid, the excess so attempted to be transported, as well as the quantity specified in the rowannah or other document aforesaid, shall, if the surplus be found on weighing to exceed two and a half per cent. on the quantity so specified, be held to be contraband, and shall be seized and confiscated as such; and the gomashtah or other person in charge of the salt shall, on proof of the fact, be subject to a fine of ten rupees for every maund of salt in excess of the quantity stated in the rowannah or other document aforesaid.—Reg X., 1819, sec. xli.

69. Protection for salt in transport within the limits of the chokies established in Bengal and Orissa, against the penalties enacted for the contraband or illicit conveyance thereof, is given by the rowannah, renewed, exchange, or atrafee rowannah, or special pass issued by the Board of Revenue, and by no other document, except in case of the transport of small quantities not exceeding one hundred maunds under a char chitty, as provided in paragraphs 59 and 60. The liability of salt to confiscation, or to other penalties, shall be determined therefore by the document aforesaid, independently of any chellauns or other subsidiary documents, also required to be taken out and exhibited under separate rules applicable thereunto. And in case of any question arising whether salt is liable to confiscation under the foregoing rule by reason of an excess of quantity being found upon weighing the same, the comparison shall be made of the total quantity in the whole despatch with the quantity specified in the rowannah, renewed, exchange, or atrafee rowannah, or special pass, as the case may be, covering the same, and confiscation shall be adjudged of the whole despatch, or the same shall be released according to the result of such comparison; provided, however, that nothing herein contained shall be construed to exempt persons engaged in the transport of salt from the necessity of taking out chellauns also under the rules applicable to such papers, or to remit the penalties enacted for the omission, or for any irregularity therein.—Reg. IV., 1832, sec. ii.

70. In like manner, if any quantity of salt, accompanied by a char chitty, shall be found to exceed that mentioned in the char chitty, a fine of ten rupees shall be levied on every maund of salt so found in excess from the proprietor.—Reg. X., 1819, sec. xlii.

71. Any person convicted of having fraudulently sold, given, or purchased rowannahs, renewed or exchange rowannahs, atrafree rowannahs, chellauns, char chitties, or passes, or having illicitly altered, attested, or endorsed such documents, or of having engaged in or connived at clandestine or fraudulent dealings, with respect to rowannahs, renewed or exchange rowannahs, atrafee rowannahs, chellauns, char chitties, or passes, for the purpose of smuggling salt, either with the person in whose name the rowannah, or either of the aforesaid documents, shall have been taken out, or with any other person or persons concerned in such transactions, shall forfeit to Government a sum of five hundred rupees on every hundred maunds of salt specified in the said rowannah, renewed or exchange rowannah, atrafee rowannah, chellaun, char chitty, or pass.—Reg. X., 1819, sec. xliii.

72. All boats, sloops, or vessels of any description, employed in transporting from the Company's golahs salt sold or to be sold at the Company's sales, shall be registered by the salt agent of the division to which the boats, sloops, or vessels may proceed to receive salt.—Reg. X., 1819, sec. xliv.

73. Salt not proceeding by the route and to the place specified in the rowannah, renewed or exchange rowannah, atrafee rowannah, or chellaun, shall be held to be contraband, although accompanied by a rowannah, renewed or exchange rowannah, atrafee rowannah, or chellaun; the salt shall be confiscated, and the parties in whose possession it may be found shall be liable to the penalty prescribed in paragraphs 54 and 55, for the illicit possession of salt.—Reg. X., 1819, sec. xlv., cl. 1.

74. All persons, therefore, who, after taking out a rowannah, renewed or exchange rowannah, or atrafee rowannah, for any despatch of salt, may be desirous of consigning or carrying the salt,

or any portion of it, to a place or by a route other than the place or route specified in such documents, shall apply for a fresh rowannah of the same description as the rowannah possessed by them, to the Board of Revenue, which Board shall grant the same, subject to the general rules above prescribed for renewed rowannahs.—Reg. X., 1819, sec. xlv., cl. 2.

75. All proprietors of salt covered by a rowannah, renewed or exchange rowannah, special pass, atrafee rowannah, or char chitty, who may sell or otherwise dispose of any portion of such salt within the line of the salt chokies, are required daily to certify on the back of the rowannah or other document aforesaid, the quantity sold or disposed of by them, and when practicable, they shall as heretofore obtain the attestation of the nearest choky darogah.—Reg. X., 1819, sec. xlvi., cl. 1.

76. Any person neglecting or omitting to comply with the above provision shall be subject to a fine of five rupees for every maund of salt which may be proved to have been sold, and not to have been written off in the manner above directed; and it shall be competent to the salt agent and superintendent to whom information of any breach of this rule may be given, to detain as security for the eventual liquidation of the said fine, two maunds of salt for every maund irregularly sold or disposed of. In like manner, persons who may accidentally lose any portion of a despatch of salt within the said limits, are hereby required, under the like penalty, to write off, in the manner aforesaid, the quantity of salt lost by them, and to obtain the attestation of the nearest choky darogah as above prescribed.—Reg. X., 1819, sec. xlvi., cl. 2.

77. Should the whole of any despatch of salt be disposed of within the limits of the chokies, the rowannah, atrafee rowannah, or char chitty, covering the salt, shall be delivered up to the darogah of the choky within which the last parcel of the salt shall have been disposed of; or in the event of the whole quantity of salt covered by any of the aforesaid documents, or any part thereof, being carried out of the control of the salt chokies, the rowannah or other document shall in that case be delivered up to the darogah of the last choky which the salt may have to pass. It shall be the duty of the darogahs to transmit all rowannahs and atrafee rowannahs which may come into their possession, to the office of the secretary to the Board of Revenue, in order that they may be there examined and compared.—Reg. X., 1819, sec. xlvi., cl. 3.

78. Any person who, in disregard of this rule, shall retain, or in whose possession any of the aforesaid documents shall be found after the salt for which they were taken out shall have been sold or carried out of the choky, and who may not be able to account for omitting to surrender them, shall on conviction forfeit to Government the sum of one rupee per maund on the quantity specified either in the rowannah, renewed or exchange rowannah, or atrafee rowannah, which may be in his possession.—Reg. X., 1819, sec. xlvi., cl. 4.

79. Fees shall be levied on the issue of rowannahs and exchange rowannahs as heretofore, at the rates specified in the list of fees annexed to this Regulation; and on the issue of atrafee rowannahs, the choky darogahs shall levy a fee of four annas for each, and shall remit the amount of the fees so collected to the salt office, at such times and in such manner as the Board of Revenue shall direct.—Reg. X., 1819, sec. xlvi., cl. 5.

80. Whenever any despatch of salt covered by rowannah, renewed or exchange rowannah, atrafee rowannah, chellaun or char chitty, shall pass any salt choky, the rowannah or other document aforesaid shall be endorsed by the choky darogah previously to its being passed, and if any salt shall be carried past any choky without the rowannah or other document being so endorsed, the salt shall be liable to seizure and confiscation, in like manner as if it was unaccompanied by a rowannah. Any darogah refusing or delaying, without sufficient cause, to give the requisite endorsement on a rowannah or other of the documents aforesaid covering salt in transit past his choky, shall be liable to such fine, not exceeding five hundred rupees, as may be adequate to the offence, and to the injury sustained: two-thirds to be paid to the owner of the salt, and one-third to be carried to the credit of Government.—Reg. X., 1819, sec. xlvii.

81. No salt, not being salt made by or on account of Government, shall be imported by land into any place within the provinces of Bengal, Behar, or Orissa, excepting from the North-Western Provinces; and any person offending directly or indirectly against this prohibition, or knowingly having in his possession any salt so imported within the said provinces, shall, in addition to the confiscation of the salt, forfeit the sum of ten rupees for each and every maund of salt so imported by him, or with his connivance.—Reg. X., 1819, sec. xlviii., and Act XVI., 1848.

82. The exportation of salt by land from the province of Cuttack to Midnapore, or any other district subject to the control of the Bengal Government, is hereby strictly prohibited; and all salt exported from the province of Cuttack, in disobedience to this prohibition, shall be confiscated, together with the boats, vessels, cattle, and carriages, which may be used in the transportation, on which the same may be laden.—Reg. X., 1819, sec. li.

83. The exportation of salt by sea from the province of Cuttack, except on account of Government, is hereby strictly prohibited; and any salt attempted to be exported in disobedience to this prohibition shall be confiscated, together with the boat, dony, or other vessel on which the same may be laden.—Reg. X., 1819, sec. lii.

84. Proprietors of salt which may be exported from Cuttack, in violation of the rules contained in the two preceding paragraphs, shall on conviction be subject to a fine of ten rupees for every maund of salt so exported.—Reg. X., 1819, sec. liii.

85. All native officers of Government of whatever description, and especially all such officers in the districts within which or in the neighbourhood of which salt is manufactured on the public account, or in those in which salt chokies may be established, are specially enjoined, under pain of dismission from office, and the penalties herein specially provided, to assist in suppressing the illicit sale, purchase, importation, transportation, or possession of salt, by seizing the same, if authorized to do so, or if not vested with the power of seizure, by giving immediate information to the authority to which they may be respectively subject, of all instances of such illicit sale, purchase, importation, transportation, or possession of salt which may come to their knowledge; any magistrate or other officer, to whom such information may be given, shall immediately transmit the same to the salt agent or superintending officer of salt chokies. Any native officer aforesaid, who may neglect to give information in the cases above specified, or who may in any manner connive at the illicit sale, purchase, importation, transportation, or possession of salt, shall, on conviction, be liable to a fine not exceeding five rupees for each and every maund of salt so sold, purchased, imported, transported, or possessed, with his knowledge or connivance.—Reg. X., 1819, sec. liv.

86. Manjies of boats, dandies, bullock-drivers, coolies, and other persons who may be convicted of knowingly conveying contraband salt on account of others, shall, on conviction, be liable to imprisonment, for a period not exceeding six weeks, and further to the payment of a fine not exceeding fifty rupees.—Reg. X., 1819, sec. lv.

*Rules for making Seizures.*

87. When information shall be given to any salt agent or superintendent of salt chokies that contraband salt is manufactured or stored in any warehouse, dwelling-house, or other place situated in the tract of country in Bengal or Orissa within which the transportation of salt without rowannah is not lawful, and such salt agent or superintendent of salt chokies shall deem the information credible, and desire to act thereupon, he shall require the same to be given to him in writing, or shall take the deposition of the informant, as may be most convenient, so that the following particulars shall be placed on record in his office. First, the name, profession, and place of residence of the informant. Second, the place, that is, the name of the town or village, and description of the house, warehouse, or other place where the salt may be stated to be unlawfully manufactured or in store. Thirdly, the name of the person to whom the house, warehouse, or other place belongs, or on account of, or by whom the salt is there manufactured or stored. Fourthly, the quantity and description of the salt, and the grounds for believing the same to be contraband.—Act XXIX., 1838, sec. ii., and Act III., 1851.

88. If the contraband salt so stated to be in store exceed in quantity one maund or Indian mun, or if any newly manufactured contraband salt shall be found, it shall be liable to seizure, together with the implements of manufacture, in manner following; that is to say, the salt agent or superintendent of chokies, having before him the written statement or deposition of an informer, given in or taken down as above prescribed, shall, provided the place of such unlawful manufacture or store be not too distant, proceed in person, together with the informant, summoning by written notice the nearest police darogah or other officer in charge of the police thannah or station to attend likewise, and witness the proceeding.—Act XXIX., 1838, sec. iii., and Act III., 1851.

89. For the purpose of making seizure of salt unlawfully manufactured or in store so informed against, it shall be competent to any salt agent or superintendent, having a police officer in company, to break open the door of the house, warehouse, or other place in which the salt may be stated to be unlawfully manufactured or stored, if, upon requisition duly made, the door be not immediately opened by the owner or occupant thereof.—Act XXIX., 1838, sec. iv., and Act III., 1851.

90. If the salt agent or superintendent shall not be able to proceed in person to make a seizure of salt, in manner above provided, he shall send along with the informer one or more confidential officers of his public establishment, not being under the rank of a jemadar of peons, giving to such officer or officers his warrant ordering and authorizing the seizure, and sending notice as above prescribed for the police darogah or other police officer to attend, and the officer so deputed shall have power to act in like manner as is provided for the agent or superintendent in person; provided that the door of no house, warehouse, or other place, shall be broken open to make a seizure of salt except in the presence of a salt agent or superintendent of chokies, or of an officer so specially deputed, and of an officer of police.—Act XXIX., 1838, sec. v., and Act III., 1851.

91. It shall be competent to the head officer of any salt choky or aurung for the manufacture of salt, and for any assistant to a salt agent or superintendent, to receive information of the

unlawful manufacture of salt, or of salt exceeding one maund in quantity being in store in a house, warehouse, or other place, in the manner prescribed in para. 87, and to act thereupon as provided in paras. 88 and 89 for the salt agent and superintendent, provided that the place of manufacture or store described in such information be situated at a distance of more than three kos from the station of a salt agent or superintendent of chokies, or from the place where the salt agent or superintendent may be.—Act XXIX., 1838, sec. vi., and Act III., 1851.

*Rules for preventing Resistance to Officers seizing contraband Salt, and for applying for the Assistance of the Police in effecting such Seizures.*

92. Any person who may by force or threats prevent an officer of the salt department, or other officer authorized to attach salt, from effecting the seizure of any salt suspected to be contraband, or adulterated, or who may forcibly resist such officer in the execution of that duty, shall be liable, on conviction before a magistrate, to a fine not exceeding two hundred rupees. Parties offending shall further be liable, in the event of an affray or other breach of the peace occurring in consequence of their resistance, to be punished under the general rules applicable to such cases.—Reg. X., 1819, sec. lvi.

93. If any officer authorized to attach salt shall have seized or be about to seize any despatch of salt, on information or suspicion of its being contraband, or shall have effected or be about to effect the attachment of the cattle, carriages, or boats used in transporting such salt, and shall have reason to apprehend forcible resistance, such officer shall apply to the nearest darogah to aid him in the execution of his duty; and all darogahs and other officers in charge of thannahs or chokies, to whom such application shall be made, or who may otherwise have reason to apprehend the occurrence of a breach of the peace in consequence of a seizure of salt, shall immediately afford the requisite aid to effect the seizure and preserve the peace.—Reg. X., 1819, sec. lvii.

94. If the darogah or person in charge of any police thannah or station, receiving notice to attend at a seizure of salt unlawfully manufactured or in store, as is above prescribed, shall not attend, or attending shall refuse to act in aid of the seizure, or shall in any way wilfully frustrate the object of the search and seizure, such darogah or other officer shall, on representation of the facts by the officers of the salt department, and on conviction of the same before the magistrate of the district, besides being dismissed from office, be liable to a fine equal to the amount of fine that would have been leviable on the owners of the salt, if it had been seized according to the information laid.—Act XXIX., 1838, sec. vii., and Act III., 1851.

95. Such seizures shall be made on the responsibility and at the risk of the officers authorized to seize, and the police-officers shall not be competent to exercise any discretion in regard to the propriety or otherwise of the seizure which they may be called upon to support, but shall be careful to prevent any unnecessary violence.—Reg. X., 1819, sec. lviii.

96. Whenever it shall be necessary to break open any house, warehouse, or other place, to effect a seizure of salt, the rules and precautions prescribed in Regulation XX. of 1817, and section x. Regulation VII. of 1799, of the Bengal code, for breaking into a house for execution of process of distraint, shall always be observed by the police officers in attendance; provided, however, that the responsibility for the act, and the determination whether to require the door to be broken open or not, shall rest with the officers of the salt department only.—Act XXIX., 1838, sec. viii., Act III., 1851.

97. The officer of the agency or choky department, bearing a requisition or warrant as aforesaid, and the police officers receiving such requisition or warrant, shall specify in their respective reports the date and exact time when the requisition or warrant was delivered to the latter: and if any delay shall occur in effecting the search, the said officers shall record the circumstances at full length in their respective reports.—Reg. X., 1819, sec. lxii.

98. If any person shall by threats or by violence prevent the lawful arrest of any person by an officer duly authorized to seize salt, or shall procure his release after arrest, or if the party found with the salt in possession, or any other persons, resist any such officers, they shall severally and respectively be liable to the punishment prescribed in para. 92.—Act XXIX., 1838, sec. xix.

99. If any officer making an arrest upon account of salt-smuggling shall neglect to carry the person arrested to the proper officer of the salt department, or shall delay to report the arrest to his superior, or shall release or connive at the escape of the person arrested, every such officer shall, on conviction of any one of the above offences, besides dismissal from office, be liable to be sentenced for the same to a fine not exceeding two hundred rupees, and to imprisonment not exceeding three months; and the sentence may be adjudged by any officer competent to adjudicate a forfeiture of contraband salt; and in case of non-payment of the fine, to a further imprisonment not exceeding three months, at the discretion of the officer deciding the case.—Act XXIX., 1838, sec. xx.

100. Whenever any person may be arrested by an officer of the salt department, or by any

other officer of other departments duly empowered to make a seizure of salt, the person making the arrest shall be bound to carry the party arrested direct to the officer of the salt department who may be competent to try the case; and no person so arrested shall be released until the case shall have been brought to judgment in the manner provided by law.—Act XXIX., 1838, sec. xxi.

101. If any officer of the salt department be convicted, before the magistrate of any district, of having vexatiously and unnecessarily seized the goods of any person, on the pretence of seizing or searching for salt, or of having vexatiously and unnecessarily arrested any person, or of having stopped and detained any boat unnecessarily and without authority, or of having detained any boat longer than is necessary for the purpose of search, every such officer shall, besides dismissal, be punished with imprisonment not exceeding six months, and with fine not exceeding two hundred rupees, commutable, if not paid, to a further imprisonment not exceeding six months.—Act XXIX., 1838, sec. xxii.

*Penalties and Fines for Misconduct of Officers in the Salt Department, Pykars and others dealing in Salt.*

102. Officers of every description in the employment of salt agents, or superintending officers of salt chokies, are prohibited from taking or receiving any fee, gratuity, perquisite, or allowance, either in money or effects, under any pretence whatever, from any molunghee or other person employed or concerned in the manufacture of salt; and if any such description of person, subject to the authority of the salt agent or superintending officer, shall be convicted before the zillah or city magistrate, within whose jurisdiction the offence may have been committed, of disobedience to this prohibition, he shall be adjudged by the court to refund the money or things so taken or received, and besides being dismissed from his office by the officer or authority to which he may be subject, he shall be further liable to imprisonment for any term, not exceeding six months, which the court may judge proper, together with such fine (not exceeding five hundred rupees for every one hundred rupees in amount or value taken or received as aforesaid) as may appear adequate to his offence: provided also, that the above rule shall be held applicable to any officer intrusted with the payment of advances to the molunghees, who may, under any pretence or colour whatsoever, appropriate to his own use the whole or any part thereof, or who may take or require from any molunghee or other person employed or concerned in the manufacture of salt a receipt or other written acknowledgment for a larger sum of money than may have been actually paid to him.—Reg. X., 1819, sec. lxiii.

103. Officers in charge of salt golahs, or any warehouse or other place in which salt the property of Government is stored, who may embezzle any of the salt received into any such golah or place of deposit intrusted to their charge, or who may knowingly permit any salt so received to be carried from such golah or place of deposit, without an order from the agent to whom he is subordinate, or who may so permit to be carried from such golah or place aforesaid a greater quantity of salt than is specified in such order, or who may knowingly grant a receipt for a larger quantity of salt than is received and stored by him, shall be held guilty of theft, and punished accordingly, on conviction before a competent Criminal Court. When there may be no direct proof of the unauthorized removal of salt from any golah or place of government store, sufficient to convict the parties concerned therein of theft, the officer or officers who may have been intrusted with the charge of such golah, or place of government store, shall nevertheless be liable for the offence of embezzling the salt of any store in their custody, the out-turn of which shall, according to the accounts kept of receipts and deliveries, exhibit a deficiency for which he or they may not duly account; and the officer in charge of any golah or salt-store shall in like manner be deemed guilty of embezzlement if he has made away with, or shall not produce the true account of such store; and any person against whom the offence of embezzlement shall be established under this paragraph, shall be liable, on conviction before the magistrate of the city or district, to be punished by fine and imprisonment, under the general powers vested in the zillah and city magistrates.—Reg. X., 1819, sec. lxiv, and Act XXIX., 1838, sec. xxviii.

104. It shall be the duty of salt agents and superintendents of chokies, on appointing any officer to situations involving the charge of public money or the custody of salt, or any other public property, or to the situation of darogah or mohurrir of a salt choky, to require such officer to furnish two responsible sureties (hazir-zamini and mal-zamini) in such sums as the Board of Revenue may direct. Officers already appointed to situations of the above description, and who have not furnished security as aforesaid, shall be required to do so within such period as the Board of Revenue may judge proper, and on failure to do so, shall be liable to dismission from office.—Reg. X., 1819, sec. lxv.

105. Darogahs in the salt department, who may be convicted of conniving at smuggling, shall, besides removal from office, and forfeiture of the amount of their securities, pay a fine of

ten rupees on every maund of salt which shall have passed the chokies of which they shall respectively be in charge, with their knowledge or connivance: provided also, that the parties shall be liable to imprisonment in the Dewanny gaol, for such period, not exceeding six months, as may appear adequate to the offence. Darogahs absent from their stations without leave shall be responsible, under the penalty prescribed in the first part of this paragraph, for any connivance at smuggling which may be proved against the person to whom the charge of the chokies may be left by them. —Reg. X., 1819, sec. lxvi.

106. Dealers in salt, pykars, or others making advances to molunghees, officers attached to the salt department, or other persons, for the illicit manufacture or delivery of salt, or purchasing or obtaining salt from such molunghees, officers, or persons, in an illicit manner, shall on conviction pay a fine of ten rupees for every maund of such salt for which advances shall have been so made, or which shall have been so purchased or obtained, and the salt, if seized, shall be confiscated. —Reg. X., 1819, sec. lxvii.

107. If any officers or servants employed in the salt department, or any other native officer of Government, shall under any pretence or by any means whatever, directly or indirectly, cause salt to be obtained from the manufacturers or other persons employed in the salt department, otherwise than on account of the Government, or shall cause salt to be manufactured for their own benefit, or knowingly permit such manufacture for the benefit of any other person, the salt so obtained or manufactured shall be confiscated, and the officer or servant so obtaining the salt, or causing the salt to be so manufactured, shall on conviction pay a fine to be calculated at the rate of ten rupees for every maund of salt so obtained or manufactured, and the officer or servant aforesaid shall further be liable to imprisonment in the Foujdary gaol for a period not exceeding six months.—Reg. X., 1819, sec. lxviii., and Act XXIX., 1838, sec. xvi.

108. In cases in which the darogah shall be declared liable to the penalty specified in paragraph 105, the mohurrir of the choky shall be considered to have connived with the darogah, and shall pay a fine of two rupees eight annas for every maund of salt illicitly transported, unless it shall appear that such mohurrir was absent with leave from the station at the time when such offence was committed, or that he gave immediate information of the circumstance to the superintendent, and otherwise used his utmost endeavours to cause the seizure of the salt, or was prevented from doing so by some unavoidable cause.—Reg. X., 1819, sec. lxix.

109. Molunghees or others receiving advances for the manufacture of salt on account of Government, who may be guilty of the embezzlement of the salt, for the provision of which they may have received advances from Government, or of otherwise illegally disposing of any salt manufactured by them, shall on conviction be liable to a fine of four rupees per maund of eighty tola weight to the seer, for each and every maund of salt embezzled, and the salt so embezzled shall be confiscated. In addition to the above penalty, the offenders shall be imprisoned in the Foujdary gaol for a period not exceeding three months. And if any person shall be convicted of the offences herein described, after having been previously convicted of a like offence, he shall be sentenced, in addition to the penalty attaching to such offence, to imprisonment in the Foujdary gaol for a period of six months, and a like punishment of six months' imprisonment shall be incurred, in addition to the punishment which may be inflicted for a first offence, upon every subsequent conviction after the second.—Reg. X., 1819, sec. lxx., and Act XXIX., 1838, secs. xvi. and xvii.

*Rules defining the Powers of Officers in regard to the Seizure of Salt.*

110. The authority to seize salt and other articles liable to seizure and confiscation, under the rules of this Regulation, shall as heretofore ordinarily, and in virtue of their offices, be exercised by salt agents and superintendents of salt chokies and their assistants, uncovenanted European and subordinate native officers. But the Governor-General in Council reserves to himself the power of vesting a like authority in such of the zillah and city magistrates, collectors of land revenue, or officers in charge of the abkarry mehaul, collectors and deputy-collectors of customs, opium agents and their deputies, and their subordinate officers respectively, as he may deem fit.—Reg. X., 1819, sec. lxxi., cl. 1.

111. Whenever a seizure of salt in any house, warehouse, or other place, shall be made by a salt agent or superintendent of chokies, the circumstances which attended the seizure shall be recorded in an official proceeding, to be placed on record in the office.—Act XXIX., 1838, sec. ix,. and Act III., 1851.

112. If the seizure be made by an officer of the salt department, other than an agent or superintendent of chokies, such officer shall report the circumstances within twenty-four hours to his official superior; and the police officer in attendance shall likewise report the occurrences at the time of seizure to his official superior.—Act XXIX., 1838, sec. x., and Act III., 1851.

113. No salt found in store in any house or warehouse shall be deemed to be contraband, or shall be liable to seizure, unless when the search is made there shall be found more thereof than

one maund or Indian mun, and the owner or person in charge shall be unable to account satisfactorily for the manner of its being in his possession.—Act XXIX., 1838, sec. xi.

114. Whenever salt shall be seized as contraband, because unaccompanied by any rowannah or other protecting document, the person or persons conveying, or having in charge the same, shall be apprehended; and all officers who are empowered to seize salt, shall likewise be competent to arrest the parties found with or having the salt in possession.—Act XXIX., 1838, sec. xii.

115. It shall be lawful for the salt agents and superintendents of chokies and other officers who may be duly empowered to seize salt, to stop and search any boats or vessels of a build adapted for sea navigation, that may be found within the limits described in para. 186 of this Act; and if salt shall be found thereon not accompanied by the necessary rowannah or other protecting document, to detain the vessel with the crew thereof, and to take them for adjudication of the case to the nearest accessible station of an officer empowered to adjudicate cases of contravention of the salt laws.—Act XXIX., 1838, sec. xiii.

116. The salt agents and their officers, the officers of the salt chokies, and officers in the salt department acting under the immediate orders of the Board of Revenue, being alone empowered to attach of their own authority, and by virtue of their offices, salt which they may know or suspect to have been illegally manufactured, imported, sold, or transported, no officers excepting those above described shall seize or detain salt, unless specially vested by Government with authority to that effect.—Reg. X., 1819, sec. lxxii.

117. Whenever any of the native officers subordinate to a zillah or city magistrate, collector of land revenue, or officers in charge of the abkary mehaul, or a collector or deputy collector of customs, who may be specially authorized by Government to seize salt, shall receive information of any salt not made in the Company's provinces of Bengal or Orissa, on account of Government, having been illegally imported into the said territories from any other than the North-Western Provinces, or of salt of any description being transported or stored within the limits of the salt chokies without the proper rowannah, chellaun, char chitties, or special pass, or of any salt being manufactured on account of individuals, by molunghees or other persons, at the khalaries or salt-works established on account of the Company, or at any khalaries or salt-works established by individuals for the purpose of manufacturing salt on their own account, or that of any other persons, the several officers aforesaid shall, as above directed, transmit immediate notice thereof to the nearest officer in the salt department empowered to attach contraband salt, and to the magistrate or other functionary to whose immediate orders they may be subject, and shall further be guided by the following rule. If the salt shall be accompanied by a regular rowannah, chellaun, char chitty, or special pass, the native officers shall confine themselves to sending the information aforesaid to the nearest officer in the salt department, and to the European functionary to whom they may be subordinate, and to assist in the seizure of the salt either under the orders of their immediate superior, or on application from the officers of the salt department, and shall not seize or detain any salt accompanied by such papers in the first instance of their own authority; but if any despatch of salt shall be unaccompanied by a rowannah, chellaun, char chitty, or special pass, as aforesaid, the said officers are empowered, of their own authority, to detain the salt, sending without delay notice of the detention of the salt to their superior and to the nearest officer in the salt department. Any native officer of Government (not being an officer attached to the salt department), unless specially authorized to do so, as well as any such officer who, though specially authorized as above, may seize or detain salt accompanied by a regular rowannah, chellaun, char chitty, or special pass, shall be liable to be dismissed from his office, and to be prosecuted for damages in the Dewanny Adawlut by the owner or the holder of such salt.—Reg. X., 1819, sec. lxxiii., and Act XVI, 1848.

118. If the officers seizing salt shall omit to forward the required report, or shall make any unnecessary delay in forwarding it, they shall, in the event of the salt not being confiscated, be liable to be prosecuted in the Dewanny Adawlut for damages by the proprietor of the salt, and to dismission from office, or in the event of the salt being confiscated, such officers shall be dismissed from office, and forfeit to Government the amount of the reward to which they would have become entitled in consequence of the confiscation of the salt.—Reg. X., 1819, sec. lxxiv.

119. All subordinate officers in the salt department are prohibited from removing the attachment from any salt which they may have seized, until they shall have received orders for that purpose from the salt agents, or the superintending officers of the salt chokies, or the Board of Revenue. Subordinate officers disobeying the rules contained in this paragraph shall be dismissed from their office, and shall pay a fine of two hundred and fifty rupees for every hundred maunds of salt so released.—Reg. X., 1819, sec. lxxv., cl. 1.

120. The salt agents, or the superintending officers of the salt chokies, are empowered to order the release of any salt seized by their own officers, or any salt which may have been seized and made over to their officers by the magistrates, collectors of revenue, or other functionary, if on

inquiry such salt agents, or superintending officers of salt chokies, shall be of opinion that the salt is not liable to confiscation.—Reg. X., 1812, sec. lxxv., cl. 2.

121. If salt shall have been seized by the officers, or under the orders of any magistrate, or by the orders of any collector of revenue or customs, or deputy collector, or any officer in charge of the abkarry mehaul, or opium agent, or his deputy, previously to the delivery of such salt to the officers of the salt department, and such magistrate, collector, or other officer aforesaid, shall be of opinion that the salt was seized on false or erroneous information, and that the salt is not liable to confiscation, he is hereby empowered to release the salt.—Reg. X., 1819, sec. lxxv., cl. 3.

122. The magistrates shall cause to be communicated, in the manner which shall appear to them most convenient, to the salt agent or superintending officer of chokies, the particulars of all information received from the police-officers, and also of all applications made to those officers by the officers in the salt department, or by any officer empowered to attach salt, for assistance in the seizure of salt.—Reg. X., 1819, sec. lxxvi.

### *Rules for Preventing the Adulteration of Salt.*

123. Any common or alimentary salt, adulterated by an artificial admixture with the substance called kharee noon, or mixed with phool-kharee noon, puckwa salt, or any description of impure and bitter salt, which may be found in any golah or shop, or in any place whatsoever, shall be confiscated and destroyed; and any salt merchant, or other person selling salt, wholesale or retail, who shall so adulterate it, or shall knowingly sell any salt so adulterated, shall pay a fine calculated at the rate of ten rupees per maund of eighty tola weight to the seer, upon the quantity which may be found so adulterated.—Reg. X., 1819, sec. lxxvii.

124. Salt adulterated in any of the modes above stated shall be seized by all officers empowered by this Regulation to seize salt, who, immediately on making any attachment or seizure, are required to report the circumstance to the magistrate within whose jurisdiction the attachment may have been made; the magistrate on receiving such report shall, without delay, institute a summary inquiry into the circumstances of the case, and if it shall appear to him that the salt has been adulterated as aforesaid, and is in consequence liable to confiscation, he shall proceed to confiscate it accordingly, and to levy the prescribed fine, commutable, if not paid, to imprisonment in the Dewanny gaol for a period not exceeding six months.—Reg. X., 1819, sec. lxxviii.

125. In cases of attachment of salt alleged to be adulterated with kharee noon, or any other salt of the description therein specified, the magistrate shall without loss of time ascertain the fact by reference either to the civil surgeon of the station for examination, or to a committee of respectable merchants or dealers in salt, or in any other mode that may appear most likely to elicit the truth.—Reg. X., 1819, sec. lxxix.

126. Provided always, that if the proprietor of such confiscated salt, being dissatisfied with the order of confiscation, shall immediately give responsible security for the amount of the penalty, and further within a period of one month shall institute a regular suit in the Dewanny Adawlut against the officer who may have seized the salt, for damages, in such case the magistrate shall suspend the execution of his order, and stay all further proceedings; but if, at the expiration of one month from the date of the order of confiscation, no suit shall have been instituted by the proprietor of the salt, the magistrate is without further delay to levy the penalty from his security, and otherwise to carry the order of confiscation into full effect.—Reg. X., 1819, sec. lxxx.

127. In all cases where any proprietor of salt confiscated for being adulterated with kharee noon, or any of the substances aforesaid, may be unable to give the above security for the amount of the penalty, the magistrate, upon his being satisfied of the inability of the party to give the security, is hereby empowered to dispense with security, taking from the party bail for his appearance only, to abide the issue of the suit; or in the event of the suit not being instituted within the period prescribed by the preceding paragraph, to answer in his own person the amount of the penalty, and in the mean time the magistrate shall keep the salt under attachment.—Reg. X., 1819, sec. lxxxi.

128. In all cases in which it may appear that an attachment or seizure has been improperly made by an officer of Government, the proprietor of the salt shall be entitled to recover full damages for all the loss and expense to which he may have been subjected in consequence, by a regular suit in the Dewanny Adawlut.—Reg. X., 1819, sec. lxxxii.

129. But should it appear to the court that there was no just ground for objecting to the order of confiscation, and that the suit has been instituted merely with a view to create delay, or for vexatious purposes, it shall be at the option of the court to impose a fine of fifteen rupees per maund, instead of ten rupees, as prescribed in paragraph 123: the decision in such case, as well as in all cases in which a regular suit may be instituted, being subject to the existing rules for appeals to the superior courts.—Reg. X., 1819, sec. lxxxiii.

130. In the event of a regular suit being instituted for the purpose of setting aside the order

of confiscation, the salt shall be held under attachment by the court until a final decision may be passed in the cause.—Reg. X., 1819, sec. lxxxiv.

*Rules regarding the Importation of Foreign Salt by Sea.*

131. Salt imported by sea, shall, on transportation into the interior of the country, be subject to the same rules as are prescribed for regulating the transit of salt manufactured and sold on account of Government —Reg. X., 1819, sec. lxxxvi.

132. The Board of Revenue will accordingly cause rowannahs and other necessary documents to be granted to the importers or owners of such salt, on their producing a certificate from the collector of customs of the payment of the prescribed duty; and all salt imported by sea, which may be found in transitu in the interior of the country unaccompanied by the regular documents, shall be held contraband, and as such be seized and confiscated to Government, and the persons in whose possession such contraband salt may be found, they knowing the same, shall be liable to the penalty prescribed in paras 54 and 55 for the illicit possession of salt.—Reg X., 1819, sec. lxxxvii.

*Rules regarding the Distribution of Rewards to certain Officers of Government attached to the Salt Department.*

133. Salt agents, and superintending officers of chokies, and their respective assistants, being covenanted servants of the Company, shall not be entitled to any share of the rewards heretofore received by them, for salt which may have been attached or confiscated by their respective orders, or by their respective officers.—Reg. X , 1819, sec. lxxxviii.

134 All subordinate officers of Government attached to the salt department, who may be concerned in the attachment of salt under the orders of their immediate superiors, or to whom information may be given respecting illicit salt, and who shall in consequence be immediately concerned in the attachment of the salt, shall be entitled to the following rewards.—Reg. X., 1819, sec lxxxix., cl 1.

135. Upon the adjudication of a forfeiture of salt, provided the parties concerned in the attempt to evade or violate the law be likewise convicted, the officers of the salt department under the grades of agent and superintendent, if they have made the seizure upon information laid, or under orders of their superiors, shall be entitled to a reward at the rate of eight annas per maund of merchantable salt so adjudged to be forfeited. If the parties concerned be not discovered and convicted, the reward to the salt officers shall be only at the rate of five annas per maund.—Act IX., 1835, sec. iv., cl 2.

136 If salt be seized by any subordinate officers of Government possessing authority to make seizures without information from others, or orders from their superior, the reward shall be at the rate of one rupee per maund if the offenders be convicted, and eight annas if no offenders be convicted.—Act IX., 1835, sec. iv , cl. 3.

137. Informers, whether officers of Government or not, shall, on the adjudication of salt to forfeiture, that may have been seized on their information, receive eight annas per maund if the offenders be convicted, and five annas if there be no conviction.—Act IX., 1835, sec. iv , cl. 4.

138. The rewards to be granted under this Regulation on coast salt, or on Saumer, Saulumbah, or any other species of foreign salt which may be confiscated, shall be calculated on the price at which salt of the same description shall have been sold at the last public sale preceding the seizure, or (if no salt of that description shall have been sold at such sale) if the salt be of a kind the use of which within the provinces of Bengal, Behar, and Orissa is prohibited, the Board of Revenue shall value the salt at such price as they may deem equitable, and the reward shall be calculated on such valuation.—Reg. X., 1819, sec. xc.

139. All boats or carriages on which any contraband or adulterated salt shall be loaded, together with all horses, bullocks, or other cattle employed in its transportation, shall be forfeited and sold by public sale, and the proceeds distributed in the following manner that is to say, one-third part to the informer or informers, one-third part to the officer or officers making the seizure, and one-third to the Government. provided further, that in cases in which a seizure of salt may be made by an officer duly authorized, without the intervention of an informer, such officer shall receive a moiety of the proceeds of the boats, carriages, or cattle aforesaid, the remaining moiety to be carried to the credit of Government —Reg X , 1819, sec. xci.

140. All rewards payable on confiscated salt, in the province of Cuttack, shall be calculated on the selling price at which Government salt of the same description may be disposed of to merchants and individuals in that province, whether the salt be disposed of by public auction, or a ready-money sale.—Reg X., 1819, sec. xcii.

141. When attachments or seizures of salt adulterated with kharee noon or other salts of the

nature described in para 123 of this Regulation, shall be made wholly by the native officers of Government, and not upon any information furnished to them, they will be entitled to receive one moiety of the fine which may be levied from the offender, agreeably to the rule prescribed in that paragraph, and the other moiety is to be carried to the account of Government.—Reg X, 1819, sec xciv, cl 1.

142 If any other person or persons shall give information of salt being so adulterated, to the native officers of Government, and the salt shall be seized in consequence of such information, he or they will be entitled to receive one-third of the fine which may be levied as above prescribed, and the officer who may have made the seizure will be entitled to receive also one-third of the amount, the remaining third is to be carried to the account of Government.—Reg X, 1819, sec. xciv, cl 2

143. The boats, carriages, &c on which such adulterated salt may be loaded, together with the horses, bullocks, and other cattle employed in its transportation, shall be forfeited and sold by public sale, and the proceeds of the sale shall be distributed in the manner above mentioned, for the distribution of the fine levied from the offender.—Reg X, 1819, sec xciv., cl 3

144 One-third of all fines which may be levied under the rules contained in this Regulation, excepting in cases specially provided for, shall be paid to the person or persons who shall first inform against the offender, whether the informant be an European uncovenanted or a native officer of Government, or a private individual, and the remaining two-thirds shall be carried to the credit of Government. In like manner, in all cases in which the appropriation of the fine may not be specifically provided for, the amount unappropriated shall be carried to the credit of the public account.—Reg X, 1819, sec xcv

*Judicial Duties of Salt Agents, and Superintending Officers of Chokies*

145 It shall be competent to the Governor or Deputy-Governor of Bengal to vest with the power of adjudicating cases of contravention of the laws for protection of the revenue derived from salt, any assistant to a salt agent, or uncovenanted superintendent of salt chokies, who may seem to him qualified, and such officers, when invested with such powers, shall exercise them, subject to the same rules and restrictions as covenanted salt agents and superintendents of chokies, provided that no officer adjudicating cases of contravention of the salt-revenue laws shall receive any part of the rewards that may be decreed, or otherwise benefit directly by the adjudication of such cases —Act XXIX, 1838, sec xxv

146 All suits, complaints, and informations for the recovery of any fine or penalty recoverable by Government, or by the informer, on account of the illicit manufacture, sale, purchase, importation, transportation, or possession of salt, excepting complaints or charges preferred against public officers for a breach of their official duty, of which the cognizance is specifically reserved to the zillah or city judges or magistrates, and excepting cases of adulteration of salt, are hereby declared cognizable in the first instance by the salt agents and superintending officers of salt chokies, anything in the existing Regulations to the contrary notwithstanding, and the investigation thereof shall be conducted under the following rules —Reg. X, 1819, sec xcvi

147 No suit, complaint, or information of the nature above mentioned, shall be admitted or proceeded upon by the salt agent, superintending officer of salt chokies, or other officer vested with the cognizance of the same, unless it shall be preferred within the period of six months after the act for which the fine or other penalty may be demandable, shall have been committed, excepting in cases in which the same shall be prosecuted on the account of Government, and good and sufficient cause be shown why the suit was not preferred within the period of six months from the commission of the act whereupon the fine or other penalty is demandable —Reg. X, 1819, sec xcvii

148 Petitions and other papers presented in suits, informations, and complaints, preferred under this Regulation before a salt agent, or superintending officer of salt chokies, as well as all papers filed in the Courts of Judicature in cases brought before them under the provisions hereinafter contained, shall not be required to be written on stamped paper, and all engagements contracted between Government, or its officers, and individuals, under this Regulation, shall be received and admitted in evidence in the different Courts of Judicature, and by the salt agents and superintending officers of salt chokies, although not written on stamped paper —Reg X., 1819, sec xcviii

149 Upon information being given to any salt agent or superintending officer of chokies, that khalaries or salt-works have been illegally established in any village or other place, such officers shall either proceed to the spot in order to satisfy themselves of the fact, or shall depute the darogah of the nearest aurung or choky, or some other trustworthy person, for that purpose The darogah or person so deputed, after ascertaining the existence of such illicit khalaries, shall proceed to destroy the works in the most public manner He shall draw up a full report of the circum-

stances of the case, attested by the signatures of the most respectable ryots of the village, and transmit it to the salt agent or superintending officer of chokies, with the implements of manufacture, or such other unequivocal proofs of the works having been used for illicit purposes as he may be able to procure. The officer aforesaid shall at the same time ascertain as far as practicable, all the circumstances of the case, particularly the persons by whom the illicit khalary may have been established or worked, and whether there is reason to believe that any of the persons specified in paras. 49 and 51 were concerned in or connived at the manufacture; and whenever a salt agent, or superintending officer of chokies, shall have strong grounds to believe, either from charges preferred or evidence given on oath or affirmation, or from his own personal knowledge, that an illicit khalary has been established, or that illicit salt is actually in the course of manufacture, contrary to the prohibitions contained in this Regulation, or that any person actually has in his possession a quantity of contraband salt, it shall be competent to the salt agent or superintendent aforesaid, to issue his warrant for the immediate apprehension of the person or persons actually engaged in the manufacture, or having the salt in his or their possession, summoning at the same time any witnesses that may appear necessary.—Reg. X., 1819, sec. xcix.

150. In all other cases in which any person may be accused before the salt agent, or superintending officer of salt chokies, of acts rendering him liable to any of the penalties prescribed in this Regulation, the salt agent, or superintending officer of chokies, shall issue a summons, with or without requisition of security, to be served by a single chupprassy, requiring the attendance of the person charged either in person or by vakeel, as the case may appear to those officers to require, to answer to the charge, on or before a certain day to be specified in the summons; and if it be necessary to require bail, the extent of the bail shall be stated in the summons, or the officers aforesaid shall at the same time summon such witnesses as may be named by the informer, and as they may judge it necessary to examine in proof of the accusation, together with any witnesses whom the accused may wish to have examined in his defence, to attend at the time appointed for the attendance of the accused.—Reg. X., 1819, sec. c.

151. In all cases in which the party accused or suspected may be apprehended under the warrant of the salt agent or superintending officer of salt chokies, or shall attend in person, the investigation by the officers aforesaid shall be commenced immediately on the arrival of the party at their cutcherries, and shall be prosecuted with the least possible delay, consistently with a due inquiry into the facts; and generally all cases of this nature tried before the officers aforesaid under this Regulation shall, as far as practicable, be proceeded upon on the day specified in the summons for the attendance of the party or his vakeel, unless it shall be necessary to postpone the investigation in order to procure the necessary evidence.—Reg. X., 1819, sec. ci.

152. Should any person charged with any of the offences which have been rendered cognizable in the first instance by salt agents and the superintendents of salt chokies, under the provisions of this Regulation, fail to attend, either in person or by vakeel, after being served with a summons in the manner hereinbefore described, or should any such person evade the process of a salt agent or superintendent of salt chokies, the salt agent or superintendent of chokies shall then cause notice by proclamation, after the form annexed to this Regulation, to be prepared in the Bengalee language, one copy of which shall be affixed in some conspicuous place at his own cutcherry, another at the usual residence of the person charged, and separate copies shall be transmitted to the judge and magistrate, and to the collector of the district, to be published by them in their several cutcherries; in the event of the party or parties not attending in person or by vakeel, within the time fixed by such notice, the salt agent or superintending officer shall proceed to investigate and pass a judgment on the case, in the same manner as if the party had been present.—Reg. X., 1819, sec. cii.

153. The salt agents and superintending officers of chokies are hereby authorized to summon witnesses and administer oaths or affirmations, or cause the execution of solemn declarations in lieu thereof, in respect to all matters brought before them under this Regulation, conformably with the provisions of Section vi., Regulation IV., 1793, Section ii., Regulation L., 1803, and Act V., 1840; provided that if any witness shall refuse to take the oath or execute the solemn declaration required from him, he shall be sent to the judge of the Zillah or City Court, to be confined as prescribed by the Regulations in similar cases.—Reg. X., 1819, sec. ciii.

154. The salt agents and superintending officers of chokies, in the summoning and the examination of parties and witnesses, and in the general conduct of the investigation, shall be guided (except when otherwise prescribed) by the rules in force for the guidance of the magistrates in the trial of persons charged with offences punishable by them; provided, however, that in suits brought by any of the officers of Government, the personal attendance or deposition of the prosecutor shall not be required, but the prosecution shall be conducted by any agent or vakeel the prosecutor may choose to appoint for that purpose.—Reg. X., 1819, sec. civ.

155. Under the above provisions, the proceedings of salt agents and superintendents of chokies will of course be held in open cutcherry, and those officers, while so holding cutcherry, shall be

authorized to punish persons guilty of contempt, by a moderate fine not exceeding one hundred rupees.—Reg. X., 1819, sec. cv.

156. Any person giving intentionally and deliberately a false deposition on oath, or under a solemn declaration taken instead of an oath, relative to any proceeding depending before a salt agent or superintending officer of chokies under this Regulation, and upon a point material to the issue thereof, shall be held and considered guilty of perjury, and shall be liable to the penalties prescribed for that offence in the Regulations in force; and any person causing or procuring another person to commit the offence of perjury as above described, is declared guilty of subornation of perjury, and punishable under the provisions of the said Regulations.—Reg. X., 1819, sec. cvi.

157. Persons resisting any process regularly and legally issued by the salt agents or superintending officers of chokies, in any case depending before them under this Regulation, shall be liable to the penalties prescribed for cases of resistance to the process of a collector in Regulation XIV. 1793, under the provisions therein specified.—Reg. X., 1819, sec. cvii.

158. Whenever any salt agent or superintendent of salt chokies shall have completed the investigation of any case cognizable by them under this Regulation, it shall be their duty to record in a Persian or Bengalee roobakaree, all the material facts of the case, with the evidence by which they may appear to have been proved, and to state at length their own opinion on the case, and the penalty, if any, which in their judgment ought to be imposed.—Reg. X., 1819, sec. cviii.

159. Salt agents and superintendents of chokies are authorized to pass a final order of confiscation in all cases in which the quantity of salt subject to confiscation under the provisions of this Regulation shall not exceed eighty maunds of eighty tola weight to the seer, and to carry such orders into effect of their own authority. In like manner, the decision of the aforesaid officers shall be final in all cases in which they may adjudge a party charged before them of any of the offences enumerated in paras. 47, 50, 51, 54 to 62, 65, 67, 68, 70, 71, 73 to 82, 84, 85, 86, 105, 106, 107, 108, 109, 119, 120, 121, 123 and 131, to a fine not exceeding four hundred rupees. Provided that every such judgment may, under paras. 169, 170 and 171, be brought by petition before the Board of Revenue, and be reversed or amended by that authority.—Reg. X., 1819, sec. cix., and Act XXIX., 1838, sec. xxxi.

160. Whenever a penalty or fine may be adjudged against any person under the provisions of this Regulation, it shall be competent to the officer or authority adjudging the same, in case the amount be not discharged, to award a period of imprisonment in commutation, according to the following scale, in addition to such imprisonment as such officer or authority may be especially empowered to adjudge:

If the amount of the fine or penalty do not exceed fifty rupees,—

The term of imprisonment to be awarded in commutation shall not be less than fifteen days, and not more than one month.

If the amount of the fine or penalty exceed fifty or be less than one hundred rupees,—

The term of imprisonment to be awarded in commutation shall not be less than one month, and not more than two months.

If the amount of the fine or penalty exceed one hundred rupees, and be not more than five hundred rupees,—

The term of imprisonment to be awarded in commutation shall not be less than two months, and not more than four months.

If the amount of the fine or penalty exceed five hundred rupees,—

The term of imprisonment to be awarded in commutation shall not be less than four months, and not more than six months.—Reg. X., 1819, sec. cx.

161. In cases in which a salt agent or superintendent of salt chokies shall adjudge any person to pay a fine not exceeding fifty rupees, if the fine be not immediately paid, he shall send the party to the judge of the zillah or city within the jurisdiction of which the offence may have been committed, with a roobakaree stating the purport of the order passed against the person in question, and the judge shall, on those grounds, give the necessary directions for the execution of the order in the manner prescribed for the execution of orders and decrees of court, and shall transmit the fine when levied to the treasury of the agent, or superintending officer of salt chokies; provided that in all such cases the roobakaree of the salt agent or superintendent of salt chokies shall specify the period of imprisonment to which the party shall be subject, in the event of the fine adjudged by them not being paid.—Reg. X., 1819, sec. cxi.

162. In all cases in which the quantity of salt proposed to be confiscated shall exceed eighty maunds, or in which the salt agents or superintendents of salt chokies shall consider any person liable to pay a fine exceeding four hundred rupees, he shall send his proceedings to the judge of the zillah or the city in which the offence may have been committed, or the salt seized, in order that the final award may be made by that authority. The parties in such cases shall, if declared by the judgment of the salt agent or superintendent to be liable to any specific fine or term of

imprisonment, be sent over under custody of peons, and the judge shall on their arrival pass such order for the holding them to bail, or otherwise securing their being in attendance to abide the final award, as he may deem proper.—Reg. X., 1819, sec. cxii., and Act XXIX., 1838, sec. xxxi.

163. It shall be the duty of the judge to have every case so forwarded to him by the salt officers brought to a hearing on the first day of his holding the Civil Court, after the arrival of the proceedings and parties; and after having duly considered the proceedings of the salt agent and superintendent, and heard anything the party may desire to urge in his defence, the judge shall be competent to pass an immediate order, either confirming the award of the salt officers (if the investigation on which the same may be founded shall appear to him complete, and the award passed thereon just and proper), or modifying the said award (in case of any irregularity appearing on the face of it), or reversing it (if in his opinion contrary to or not supported by the evidence and facts of the case as borne on the proceedings), or to institute a fresh investigation, and summon any further evidence, or to direct the re-attendance of the witnesses previously examined, as well as to call for any explanations from the officers or parties concerned that he may deem necessary.—Reg. X., 1819, sec. cxiii.

164. If the attendance of parties charged with offences in contravention of the laws enacted for the protection of the revenue derived from salt, cannot be obtained by reason of their failure to attend in person or by vakeel, after being served with a summons, or by reason of their evading process, the officer adjudicating any such case shall issue notice for the attendance of the parties accused in the manner prescribed in para. 152; and if the parties do not attend in person or by vakeel within the time fixed by such notice, the officer adjudicating the case shall pass judgment thereon, under the said last-mentioned paragraph, in like manner as if the parties accused were present; and the officer so adjudicating any case ex parte may, at any time after such judgment, issue his warrant for the apprehension of the persons convicted, for execution of the sentence, in the manner herein provided for cases in which the parties were present; and further, may at any time sue out process for levying the amount of fine adjudged, from any Civil Court competent to execute its own decrees in the manner and form prescribed for the execution of the decrees of such Civil Court under the following paragraph.—Act XXIX., 1838, sec. xxix.

165. When the officer holding proceedings in any case ex parte, as above provided, shall refer the case to the judge of any city or zillah, in consequence of the amount of fine being such as the said officer is not competent finally to adjudge, the judge of the city or zillah to whom such case may be referred, shall issue such orders and institute such proceedings as are authorized by paras. 161 to 163, in like manner as if the offenders were sent over with the case, or were present to be heard in their defence; and whenever any fine may be adjudged by the zillah or city judge, the same may be levied on the application of the salt agent or superintendent of salt chokies under the rules in force for the execution of the decrees of Civil Courts.—Act XXIX., 1838, sec. xxx.

166. The zillah and city judges shall pass final judgment in all cases referred to them for adjudication when the quantity of salt to be confiscated shall exceed eighty maunds, or the fine imposed shall exceed 400 rupees; provided, however, that there shall in all such cases be an appeal open to the Sudder Dewanny Adawlut, under the rules for the admission of special appeals in that court, upon any point of law which may be ruled by a zillah or city judge in any such judgment.—Act XXIX., 1838, sec. xxxii.

167.* Whenever any award may be passed by any zillah judge under the rules of para. 163, the judge shall, if the offence charged be established, proceed to levy the fine or fines, and to commit the parties to gaol in pursuance thereto, under the general rules of the Regulations for the realizing of fines and executing decrees and orders of court. The judge shall further communicate to the salt agent or superintendent whom it may concern a copy of his final order with as little delay as possible, in order that any salt that may be held under attachment may be dealt with accordingly: provided, however, that in any case in which an appeal may be preferred to the Sudder Court against the decision of a zillah or city magistrate, if the party by whom such appeal may be lodged shall tender sufficient security for the performance of the order of the Sudder Court, the zillah or city judge shall suspend the execution of his decision, and shall instruct the salt agent or superintendent to keep in deposit the salt which may have been adjudged contraband, until the final award of the Sudder Court be passed. In all such cases it shall likewise of course be competent to the Sudder Court to stay execution of the decree passed by the zillah or city judge, or to direct the officers in the salt department to keep in deposit the salt which may have been condemned, or the fine realised by the Zillah or City Court.—Reg. X., 1819, sec. cxv.

168. If the award of the civil judge shall acquit the parties charged, or adjudge any salt under attachment not to be contraband, the parties shall immediately be released, and the attachment taken off; provided, however, that in case the quantity of salt under question shall amount to or exceed two hundred maunds, and an appeal should be lodged, or proposed to be lodged, by any

* "Sudder Court" has been substituted for "Provincial Court" in this paragraph, under cl. 3, sec. xxviii., Reg. V., 1831.

party interested, the attachment of such salt shall not be taken off until it shall be seen whether any appeal be so lodged, and what may be the award thereon: but if no appeal be lodged by any party within one month, attachment shall not continue longer.—Reg. X., 1819, sec. cxvi.

169. In all cases in which any salt may be forfeited to Government under the rules contained in this Regulation, or in which any person may have been subjected to any of the penalties prescribed in paras. 47, 50, 51, 54 to 62, 65, 67, 68, 70, 71, 73 to 82, 84, 85, 86, 105 to 109, 119, 120, 121, 123 and 131 of this Regulation, whether the final order shall have been passed by a Court of Judicature, or by a salt agent or superintendent of salt chokies, it shall be competent to the Board of Revenue, on application from the party, to call for a report of the circumstances of the case from the salt agent or superintendent by whom it may have been in the first instance investigated, in the manner heretofore practised in respect to seizure made by those officers, and to remit any portion of the fine or penalty which may have been imposed.—Reg. X., 1819, sec. cxvii., cl. 1.

170. Provided also, that if in any case the salt agent or superintendent of salt chokies shall not deem it necessary to levy the full amount of the fine to which the party offending may be liable under this Regulation, and the said party shall submit himself by a written ikrar-namah to the decision of the salt agent or superintendent, and shall pray to have judgment passed by those officers without reference to the Courts of Judicature, then and in that case it shall be competent to the salt agent or superintendent, with the sanction of the Board of Revenue, previously obtained, to pass a final judgment in the case, whatever may be the quantity of salt or amount of fine.—Reg. X., 1819, sec. cxvii., cl. 2.

171. Provided also, that the amount of rewards to be received by informers and the subordinate officers of Government, under the rules contained in this Regulation, shall in all cases be regulated by the value of the salt or other property actually confiscated to Government, or the amount of fine realized.—Reg. X., 1819, sec. cxvii., cl. 3.

172. All fines which may be levied by any judge of a Zillah or City Court shall on realization be immediately remitted to the salt agent or superintendent of salt chokies, by whom the case may, in the first instance, have been investigated. The superintendents and salt agents shall be guided in the distribution and payment of the rewards, to which informers and subordinate officers of Government may be entitled under the rules contained in this Regulation, by such general or special orders as they may receive from the Board of Revenue.—Reg. X., 1819, sec. cxviii.

173. All applications preferred to the Board of Revenue, for a remission or mitigation of any fine or penalty imposed by a salt agent or superintendent, or by a Court of Judicature, shall be written on stamped paper, the value of which shall be regulated as follows:

174. In cases in which the quantity of salt adjudged contraband shall not exceed twenty maunds, or the amount of the fine imposed fifty rupees, the petition to the Board shall be written on stamped paper of the value of two rupees:

175. If the quantity of salt be more than twenty maunds, and do not exceed one hundred maunds, or if the fine imposed be more than fifty rupees, and do not exceed rupees two hundred and fifty, the petition shall be written on stamped paper of the value of four rupees:

176. If the quantity of salt be more than maunds one hundred, and do not exceed two hundred maunds, or if the fine imposed be more than two hundred and fifty rupees, and do not exceed five hundred rupees, the petition shall be written on stamped paper of the value of six rupees:

177. If the quantity of salt exceed two hundred maunds, or the fine imposed five hundred rupees, the petition to the Board shall be written on stamped paper of the value of eight rupees.—Reg. X., 1819, sec. cxix.

178. Salt agents and superintendents of salt chokies shall be authorized in all cases in which they may consider any charge preferred before them not to be substantiated, to acquit the party accused, and to release the salt or other article which may have been seized: provided, however, that if the party accused be an officer in the salt department, it shall be competent to the Board of Revenue, at any time within three months of the date on which the order of the salt agent or superintendent may have been passed, notwithstanding such acquittal, to direct the superintendent or salt agent to transmit his proceedings to the zillah or city judge, and the judge shall proceed to investigate and decide on the case in the same manner as is above prescribed for cases referred to the court under the rules of paragraph 162.—Reg. X., 1819, sec. cxx.

179. Persons sentenced to imprisonment under the provisions of this Regulation, and persons confined for non-payment of the fines to which they may be liable, shall ordinarily be confined in the Dewanny gaol; but any person or persons who may be convicted of smuggling salt without rowannah, singly or in gang, and sentenced to pay a fine to Government on account of salt so smuggled, or attempted to be smuggled, shall, if the fine be not paid, be liable to imprisonment in the criminal or foujdary goal, for a period not exceeding six months, in commutation of such fine.—Reg. X., 1819, sec. cxxi., Act XXIX., 1838, sec. xv.

180. Any person who may be sentenced under paras. 47, 107, and 109, to imprisonment in addition to fine, for the offences described in those paras. respectively, shall in like manner be

liable, as above provided for persons convicted of gang smuggling, to undergo such punishment in the foujdary gaol: and cases of the kind described in the said paragraphs shall be adjudicated in like manner as cases in which fine only is adjudged: and the warrant of the officer adjudicating any case under this or the preceding paragraph shall be authority for the magistrate, or other person in charge of the foujdary gaol, to hold the person described therein in confinement, in such gaol as may be specified and required in the said warrant.—Act XXIX., 1838, sec. xvi.

181. If any person shall wilfully and maliciously give false information in respect to there being an illicit manufacture or store of salt in any house or warehouse, and so procure that such house or warehouse shall be searched to the injury or vexation of the owners thereof, or of any other person or persons whatsoever, such false informer shall, on conviction of the offence before any magistrate, be liable to imprisonment for two years, and to fine not exceeding five hundred rupees, at the discretion of any magistrate by whom the case may be tried; and in case of the non-payment of the fine, to imprisonment for a further period of six months.—Act XXIX., 1838, sec. xxiii.

182. It shall be the duty of the Board of Revenue to require from the officers under their control, such periodical reports or returns regarding the judgments passed by them, and generally in respect to their discharge of the duty intrusted to them under the provisions of this Regulation, as may appear to that Board best calculated to secure regularity of procedure, and as may enable the Board to judge whether the inquiries held by those officers on the trial of the cases cognizable by them, are duly and speedily conducted, and whether the parties implicated have been exposed to any inconvenience or hardship which might have been avoided; and it shall be competent to the Board to call for and examine the proceedings of the salt agent or superintending officer of chokies whenever they may judge it necessary or proper to do so.—Reg. X., 1819, sec. cxxiii.

183. Whatever judicial powers are declared by this Regulation to be vested in salt agents, and superintending officers of chokies, shall be considered to be likewise vested in all persons appointed to officiate in and exercise the functions of those officers for the time being, and the same powers are hereby declared to be conferred upon the respective assistants of such salt agents and superintending officers of chokies, such assistants being covenanted servants of the Honourable Company, and having been two years in the public service, in cases referred to them for inquiry by their official superiors: provided however, that in all cases in which such investigations may be delegated by salt agents or superintending officers of salt chokies to their assistants, the final roobakaree recorded by those officers shall be submitted for the approval of the salt agents or superintending officers of salt chokies, who shall be competent to confirm, alter, or reverse the judgment therein contained, and no decision passed by the said assistants in such cases shall be carried into effect, until the agent or superintending officer of chokies aforesaid shall have confirmed the same, under his official seal and signature.—Reg. X., 1819, sec. cxxiv.

184. It is hereby provided, that it shall be competent to a salt agent, or person exercising the functions of salt agent, with the previous sanction of the Board of Revenue, to refer any informations or other matters, requiring judicial investigation regarding the illicit manufacture, sale, transit, or possession of salt, to the superintending officer of salt chokies, for investigation, whenever the more immediate duties of his office, as connected with the manufacture of salt, may occupy so much of his attention as to render it impracticable for him, without detriment to the public interest, to conduct the inquiry in person, or any circumstances may render it improper or inconvenient, to refer the investigation to his assistant; and the superintendent of chokies shall, in such cases, observe the same course of proceeding as in regard to suits or complaints originally preferred to himself.—Reg. X., 1819, sec. cxxv.

185. If any disputes should arise between a salt agent, a superintending officer of chokies, or any officer of Government, and any person, on any matter relative to the manufacture, provision, transportation, sale, purchase, or possession of salt, not provided for in this Regulation, either party is to be at liberty to apply for redress to the Courts of Civil Judicature, and the case shall be tried and decided upon under the general laws, Regulations, and usages ordinarily observed in the Civil Courts.—Reg. X., 1819, sec. cxxvi.

186. And it is hereby enacted, that the penalties of this Act shall take effect only within the tract of country guarded by salt chokies in the manner prescribed in paragraph 54, and within which the transportation of salt, not belonging to Government, without a rowannah, or special pass from the Board of Revenue, is not lawful; and it is hereby declared that such tract shall not extend, within the Delta of the Ganges and Megna rivers, beyond the line of the reach of the tides in the rivers communicating with the Bay of Bengal as taken at spring tides in the dry season; nor eastward of the Megna, north of the river Goomtee; nor westward of the river Hooghly, beyond a line drawn from a point on that river distant one mile from the northern end of the town of Nyasurai, and to the north thereof, to a like point distant one mile to the north of the town of Guttaul, and thence to a like point distant one mile to the north of the town of Midnapore, and thence to a like point distant one mile to the north of Huldipookur in Singbhoom, so as to include each of those towns respectively.—Act XXIX., 1838, sec. xxxiii.

187. Where from local circumstances, or other sufficient cause, it shall appear to Government to be proper to direct the retail sale of salt within any particular district or tract of country, and consequently to modify the rules generally applicable to that branch of the public resources, it shall be competent to the Governor-General in Council, by an order in council, to direct the said rules, or any part of them to be suspended within the district or tract of country in question, for such period as may from time to time appear proper, and in lieu thereof to prescribe for the same such other rules relative to transportation, sale, purchase, and possession of salt, and for the issue and disposal of rowannahs and passes as may, from time to time, appear to be expedient. Provided, however, that the penalties attaching to the violation of the rules so specially prescribed shall not in any case exceed those which would attach under the general Regulations to the illicit transportation, sale, purchase, or possession of the like quantity of salt. In all such cases, the special rules prescribed shall be published in the current language of the district, and shall be affixed at the cutcherry of the judge, magistrate, and collector of the district, as well as at the office of the local salt agent and superintendent of chokies, and at the several police thannahs, and salt chokies within the tract in question.—Reg. X., 1826, sec. iv.

## NORTH WESTERN PROVINCES.

188. From and after the 1st day of September, 1843, the manufacture of alimentary salt throughout the North-Western Provinces of the Presidency of Bengal, without the express sanction of the Government, is prohibited; and any person engaging in the manufacture of such salt, or preparing or causing to be prepared works for the manufacture of such salt, without such sanction, and all zemindars or other proprietors of land, or their agents, conniving at such illicit manufacture, shall, on conviction by the magistrate within the limits of whose district the offence may have occurred, be punished by a fine not exceeding five hundred rupees, and on non-payment of such fine, by imprisonment not exceeding six months, with or without hard labour; and all works at which such manufacture shall have been conducted, or which are designed for such manufacture, shall be destroyed, and any salt which may be manufactured or stored thereat, shall be seized and confiscated.—Act XIV., 1843, sec. iv.

189. It shall be lawful for the collectors of customs and the collectors of land revenue within their jurisdictions to destroy all works for the manufacture of salt, and to seize the salt stored thereat, and to apprehend the persons concerned in the manufacture thereof, and make them over for trial to the magistrate within the limits of whose district the offence may have occurred.—Act XIV., 1843, sec. v.

*For the duties on the import of salt, and the provisions for the enforcement of the above rules, see* CUSTOMS.

## CALCUTTA.

*For preventing the smuggling of Salt into Calcutta.*

190. The Governor of Bengal may establish as many chokies as he shall deem necessary for preventing the smuggling of alimentary salt into the town of Calcutta, and upon that part of the river Hooghly which lies within the local jurisdiction of the Supreme Court, and such chokies shall be under the charge of an officer to be styled the "Superintendent of Salt Chokies," who, in the exercise of his functions, shall be subject to the control of the Board of Revenue—Act XIII., 1849, sec. i.

191. The superintendent may appoint darogahs, mohurrers, jemadars, burkundauzes, and other officers to assist him in the discharge of his duties; and the officers so appointed, besides their ordinary respective designations, shall be styled "Officers of Salt Chokies."—Act XIII., 1849, sec. ii.

192. Excepting salt imported by sea, and stored under bond, as provided by Act No. XXV. 1836, it shall not be lawful to import alimentary salt into the town of Calcutta, or to carry such salt within the said town, or upon the river Hooghly, as aforesaid, in excess of the quantity of ten seers of eighty tolas to the seer, or to store such salt within the said town in quantities exceeding one maund, except under a rowannah, or special pass, from the Board of Revenue, or a char-chitty, or pass from the said superintendent, to be granted under such rules, and on the payment of such fees as the said Board shall direct.—Act XIII., 1849, sec. iii.

193. All alimentary salt found within the said town, or upon the river Hooghly, as aforesaid, in contravention of this Act, shall be deemed contraband and liable to seizure and confiscation; and if several persons shall be found carrying salt, unprotected by a rowannah, or char-chitty, as

aforesaid, in gangs or companies, which salt shall exceed in the whole quantity ten seers, such salt shall be deemed contraband; but no salt found in store in any house or warehouse shall be deemed to be contraband, unless, when the search is made, there shall be found more thereof than one maund, and the owner or person in charge shall be unable to account, satisfactorily, for the manner of its being found in his possession —Act XIII., 1489, sec. iv.

194. If any person shall carry, or attempt to carry, within the said town, or upon the river Hooghly, as aforesaid, under a rowannah, or char-chitty, a greater quantity of salt than shall be therein specified, the excess shall be deemed contraband, and if such excess is found to be more than one-fortieth part of the quantity so specified, the whole quantity shall be deemed contraband, and liable to seizure and confiscation; and the gomashtah or other person in charge of the salt shall be liable to a fine of ten rupees for every maund of salt in excess of the quantity specified in the said document; and the excess shall be calculated upon the whole despatch as provided in para. 69.—Act XIII., 1849, sec. v.

195. The provisions contained in paras. 54 to 80 both inclusive, as to the preparation, currency, renewal, production, endorsement, delivering up and falsifying of rowannahs, or other protective documents, shall be applicable within Calcutta, and on the river Hooghly as aforesaid.—Act XIII., 1849, sec. vi.

196. Whenever any salt shall be seized as contraband, the vessels, packages, and coverings in which such salt shall be found, and the animals and conveyances used in carrying it, shall also be liable to seizure and confiscation.—Act XIII., 1849, sec. vii.

197. All persons in whose possession contraband salt shall be found, except in the case provided for by para. 194, shall be liable to a fine, calculated at a rate not exceeding five rupees for each maund, upon the quantity so found; and each one of a party of smugglers, or of the parties to the fraud on the revenue, shall be liable to the whole fine.—Act XIII., 1849, sec. viii.

198. The superintendent of salt chokies, and any of his subordinate officers, and any officer of any other department, whom the Governor of Bengal shall authorize in that behalf, may stop and detain any person removing or carrying any salt, without a rowannah or char-chitty, or otherwise liable to confiscation under this Act; and may seize the salt, with the vessels, packages, and coverings in which the salt is found, and the animals and conveyances used in carrying it.—Act XIII., 1849, sec. ix.

199. If the superintendent has good reason to believe, either from information given by any of his subordinate officers, or other person, to be taken down in writing, or from his own knowledge, or from the proceedings in any other case, that contraband salt, exceeding in quantity one maund, is stored in any place, it shall be lawful for him, between sunrise and sunset, but always in the presence of a constable, or other officer of the peace, to enter into every such place where any such contraband salt as aforesaid is suspected to be stored, and to seize and carry away the same; and, in case of resistance, to break open any door, and to force and remove any other obstacle to such entry, search, seizure, or removal as aforesaid; and to arrest and detain the owner or occupant of the premises, with all parties whom he suspects to be concerned in the unlawful storing whom he shall find on the premises; and if the superintendent shall not be able to proceed in person to make the seizure, he may, by warrant under his hand, empower any officer of salt chokies, above the rank of a jemadar of peons, to make the same; and the officer so authorized shall proceed in the same manner, and with the same powers, as above provided in respect of the superintendent himself. Provided that, where there is ground to suspect that such contraband salt as aforesaid is concealed in any zenana, the superintendent, or officer authorized as aforesaid, shall follow, as closely as may be, the rules for the seizure of property so concealed, adopted by the Supreme Court of Judicature at Fort William.—Act XIII., 1849, sec. x.

200. All constables, and other ministerial officers of the peace, are required to help the superintendent and his subordinate officers, and other officers authorized to make a seizure of salt, in the due execution of this Act, upon notice given or request made by the superintendent, or any such officer. Any officer who, without lawful excuse, shall refuse or neglect to help as aforesaid, on being required to do so, shall be liable to a fine, not exceeding five hundred rupees —Act XIII., 1849, sec. xi.

201. Whenever a seizure of salt in store, in any place, shall be made by the superintendent, the facts of the seizure shall be recorded in an official proceeding to be placed on record in his office; and if the seizure shall be made by a subordinate officer, such officer shall report the circumstances within twenty-four hours to the superintendent.—Act XIII., 1849, sec. xii.

202. Every person who shall maliciously give false information against any person for importing or transporting, or in respect of there being in any house or shop any salt, in contravention of this Act, shall be liable to a fine not exceeding five hundred rupees, or to imprisonment in the common gaol for a period not exceeding six months, or both.—Act XIII., 1849, sec. xiii.

203. Every person who shall obstruct or molest the superintendent, or any officer of salt chokies, or any officer of another department duly authorized to make a seizure of salt, or any

person acting in aid of the superintendent, or any officer, as aforesaid, in the due execution of this Act, shall be liable to a fine not exceeding five hundred rupees; and such person shall be further liable, if an affray or breach of the peace shall happen in consequence of his resistance, on conviction of the same before a competent tribunal, to such punishment as is prescribed by law for cases of affray and breach of the peace, in addition to the penalty above prescribed for resistance of process.—Act XIII., 1849, sec. xiv.

204. Any officer of salt chokies, or any officer of another department, duly empowered to make a seizure of salt, who, without reasonable cause, shall delay carrying any person arrested, or any illicit articles seized under this Act, to the superintendent, or neglect to report the particulars of an arrest, seizure, or search, within twenty-four hours thereafter, shall be liable to a fine not exceeding two hundred rupees.—Act XIII., 1849, sec. xv.

205. Any officer of salt chokies, or any officer of another department, as aforesaid, who shall vexatiously and unnecessarily seize the goods or chattels of any person, on the pretence of seizing or searching for contraband salt, or who shall vexatiously or unnecessarily arrest any person, or commit any other excess, not required for the execution of his duty, shall be liable to a fine not exceeding five hundred rupees.—Act XIII., 1849, sec. xvi.

206. Any officer employed in the salt choky department, or any officer of another department, as aforesaid, who shall connive at the smuggling of salt, or unlawfully release or connive at the escape of any person arrested under this Act, or act in a manner inconsistent with his duty, for the purpose of enabling any person to do anything whereby any of the provisions of this Act may be evaded or broken, or the revenue derived from salt defrauded, shall be liable to a fine not exceeding five hundred rupees.—Act XIII., 1849, sec. xvii.

207. Any officer employed in the department of salt chokies, or any officer of another department, as aforesaid, who shall ask or take any gratuity, not authorized by any law or order of Government, or of the Board of Revenue, in consideration of doing or of omitting to do any act in his official capacity, and any person who shall offer a bribe to any such officer, in order to induce such officer to act in a manner inconsistent with his duty, shall be liable, for every such offence, to a fine not exceeding five hundred rupees.—Act XIII., 1849, sec. xviii.

208. Whenever the superintendent shall arrest any person, or shall seize any contraband salt, he shall, with all convenient dispatch, carry the person arrested, with the salt, and any other chattels liable to confiscation, seized therewith, before any justice of the peace for the town of Calcutta, and if the arrest or seizure shall be made by any of his subordinate officers, or other officer duly empowered, such officer shall immediately carry the person arrested, and the articles seized, to the superintendent, who shall thereupon proceed as if the arrest or seizure had been made by himself. Provided that nothing in this rule shall be construed to prevent the superintendent from releasing any persons arrested, or property seized, when he considers such persons or property to have been improperly arrested or seized.—Act XIII., 1849, sec. xix.

209. Whenever any salt, or other chattels, shall be seized by the superintendent, or other duly authorized officer, as liable to confiscation under this Act, such seizure shall, upon information exhibited by the superintendent, be heard and determined in a summary way by such justice of the peace as aforesaid: and such justice shall cause the persons, to whom such salt, or other chattels, belong, to be summoned to appear before him, and, upon their appearance or default, shall examine into the cause of the seizure thereof, and give judgment; and upon confiscation thereof, shall issue his warrant to the superintendent for the disposal thereof, according to the orders of the Board of Revenue.—Act XIII., 1849, sec. xx.

210. Whenever any salt, or other chattels, shall be seized, as aforesaid, and no person shall appear before the superintendent, within one calendar month, to claim the same, the justice shall examine into the cause of the seizure, at a place and time of which notice shall have been given by the superintendent in the Calcutta Gazette, and give judgment for the confiscation of such salt and other chattels, as, upon such examination, shall appear to him confiscable: and, upon confiscation thereof, shall issue his warrant for the disposal of them, as if the owner had been summoned to attend the said justice.—Act XIII., 1849, sec. xxi.

211. All fines, leviable under this Act, shall be adjudged by any justice of the peace for the town of Calcutta, and the said justice, upon information exhibited before him by the superintendent, shall, with all convenient despatch, and not later than three calendar months after the act for which the fine may be demandable, summon the parties accused, and, upon their appearance or default, shall examine into the matter, and upon due proof made thereof, by the voluntary confession of the parties, or by the oath or solemn affirmation, in cases wherein a solemn affirmation is receivable by law instead of an oath, of one or more credible witnesses, shall give judgment accordingly; and, in default of payment of any fine to which an offender is adjudged, he shall be liable, by order of the said justice, to imprisonment in the common gaol of Calcutta for a period not exceeding six months, or until the fine is sooner paid.—Act XIII., 1849, sec. xxii.

212. Whenever any person shall be convicted, before any justice, of an offence against this

Act, after having been previously convicted of a like offence, he shall be liable, in addition to the penalty attached to such offence, to imprisonment in the common gaol, for a period not exceeding six months; and a like punishment of imprisonment, not exceeding six months, shall be incurred, in addition to the punishment which may be inflicted for the first offence, upon every subsequent conviction after the second.—Act XIII., 1849, sec. xxiii.

213. One-half of all fines levied from persons convicted of the illicit importation, transportation, or storing of salt, and of the proceeds from sale of articles confiscated, shall, upon adjudication of the case, be awarded to the officer or officers subordinate to the superintendent, or other duly authorized officer of another department, who apprehended the offender or seized the illicit articles; and the other half of all such fines and proceeds shall be given to the informer; and if no fine is realized, the Board of Revenue may grant such reasonable reward, not exceeding the sum of two hundred rupees, as may appear to them fit; and such officers and informers shall further be entitled to the rewards specified in paras. 135, 136, 137. Provided, that the Board of Revenue may direct, by general order, what classes of officers of salt chokies shall receive rewards, and what classes shall have no title to share in them.—Act XIII., 1849, sec. xxiv.

214. All fines, levied under this Act, the disposal of which is not specially provided for, shall belong to Government; but the Board of Revenue may grant any portion thereof, not exceeding one-half, as rewards to informers, or as compensation to parties injured by any proceedings under this Act.—Act XIII., 1849, sec. xxv.

215. No writ of certiorari shall be issued at the suit of any party, out of the Supreme Court of Judicature, to supersede, stay, remove, or in any wise affect any information, or judicial proceeding before any justice of the peace, in pursuance of this Act; and no judgment thereupon shall be quashed, except for error of law apparent on the face of the judgment.—Act XIII., 1849, sec. xxvi.

216. When any penalty or confiscation shall be adjudged by a justice of the peace under this Act, the Board of Revenue, within one month after judgment given, may call for the proceedings of the case (with which requisition the justice of the peace shall be bound to comply), and, if they shall see cause, may direct that the seizure, or any part thereof, be restored, and remit or mitigate the penalty and discharge the party.—Act XIII., 1849, sec. xxvii.

217. All actions and prosecutions to be commenced against the superintendent, or any officer of salt chokies, or any officer of another department duly empowered to seize contraband salt, or any person acting in aid of the superintendent, or other officer, as aforesaid, for anything done in pursuance of this Act, shall be commenced within three calendar months after the fact committed, and not afterwards; and notice in writing of such action, and of the cause thereof, shall be given to the defendant, one calendar month at least before the commencement of the action; and no plaintiff shall recover, in any such action, if tender of sufficient amends shall have been made before such action brought, or if after action brought a sufficient sum of money shall have been paid into court, with costs, by or on behalf of the defendant.—Act XIII., 1849, sec. xxviii.

218. The term alimentary salt, as used in this Act, shall be held to include and apply to noon-chye, puckwa, and every other kind of salt substance, used as a seasoning for food.—Act XIII., 1849, sec. xxix.

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# APPENDIX.

## No. 1.

FORM of Proclamation referred to in paragraph 152.

WHEREAS a complaint having been lodged against A. B. for suffering the illicit manufacture of salt on his estate, a notice of the same was issued on requiring the said A. B. to attend within days at this cutcherry, either in person or by vakeel, to answer to the charge preferred against him; and whereas the said A. B. has absented himself from his usual place of residence, so as to prevent the notice being served upon him, [or having received the notice, as the case may happen to be], has failed to attend agreeably to the requisition; proclamation is hereby made, that if the said A. B. does not appear in person, or by duly authorized mokhtar, on or before the case will be proceeded upon *ex parte*, and the award will be made in the same manner as if the defendant had appeared and answered to the charge.

No. 2.

TABLE of Fees to be paid by parties taking out Rowannahs, Renewed or Exchange Rowannahs, or Atrafee Rowannahs.

On Rowannahs, renewed or Exchange Rowannahs for Salt.

| | | | | | | | | | Rs. | A. | P. |
|---|---|---|---|---|---|---|---|---|---|---|---|
| From | 1 | to | 500 | maunds | ... | ... | ... | ... | ... | 1 | 0 | 0 |
| „ | 501 | to | 1,000 | ditto ... | ... | ... | ... | ... | ... | 1 | 8 | 0 |
| „ | 1,001 | to | 1,500 | ditto ... | ... | ... | ... | ... | ... | 2 | 8 | 0 |
| „ | 1,501 | to | 2,000 | ditto ... | ... | ... | ... | ... | ... | 3 | 0 | 0 |
| „ | 2,001 | to | 2,500 | ditto ... | ... | ... | ... | ... | ... | 4 | 0 | 0 |
| „ | 2,501 | to | 3,000 | ditto ... | ... | ... | ... | ... | ... | 4 | 8 | 0 |
| „ | 3,001 | to | 3,500 | ditto ... | ... | ... | ... | ... | ... | 5 | 8 | 0 |
| „ | 3,501 | to | 4,000 | ditto ... | ... | ... | ... | ... | ... | 6 | 0 | 0 |
| „ | 4,001 | to | 4,500 | ditto ... | ... | ... | ... | ... | ... | 7 | 0 | 0 |
| „ | 4,501 | to | 5,000 | ditto ... | ... | ... | ... | ... | ... | 7 | 8 | 0 |
| „ | 5,001 | to | 5,500 | ditto ... | ... | ... | ... | ... | ... | 8 | 8 | 0 |
| „ | 5,501 | to | 6,000 | ditto ... | ... | ... | ... | ... | ... | 9 | 0 | 0 |
| „ | 6,001 | to | 6,500 | ditto ... | ... | ... | ... | ... | ... | 10 | 0 | 0 |
| „ | 6,501 | to | 7,000 | ditto ... | ... | ... | ... | ... | ... | 10 | 8 | 0 |
| On every atrafee rowannah a fee of ... | | | | | | | | | | 0 | 4 | 0 |

—Reg. X., 1819, Appen. 1 and 2.

# INDIGO.

## TABLE OF ENACTMENTS.

| Original Regulation or Act. | Paras. in Consolidation. | REMARKS |
|---|---|---|
| 1795. XXXIII. | 1 to 9 | Special rules for Benares anterior to permanent settlement. |
| | | GENERAL RULES. |
| 1823 VI. | | |
| ii. | 1 | |
| iii. | 2 to 10 | |
| iv. | 12 & 13 | |
| v. 1 & 2. | 14 & 15 | |
| 3. | | Repealed by Act X., 1836. |
| 4. | 16 | |
| vi. | 20 | |
| vii., viii. | 23, 24 | |
| 1824. V. | | This extends Reg. VI., 1823, and its operation is accounted for by entering the provisions of that Regulation as of general operation. |
| 1830. V. | | |
| ii., iii. | | Superseded or repealed by Act XVI., 1835. |
| iv. | 25 | |
| v. | 17, 18 | |
| 1835. XVI. | | A rescinding enactment; the rescinded rules omitted. |
| 1836. X. | | |
| ii. | 11 | |
| iii. | 19 | |
| iv., v. | 21, 22 | |

# INDIGO.

## I.—RULES RELATING TO THE CULTIVATION AND MANUFACTURE OF INDIGO IN BENARES, PASSED BEFORE THE PERMANENT SETTLEMENT.

1. Conformably to the restrictions alluded to in the preamble to this Regulation, on the 20th March, 1794, a circular order was issued to the aumils, forbidding any more ground to be leased to natural-born British subjects or to other Europeans, or conveyed to them by sale or otherwise, without the sanction of Government to be first had and obtained; and (lest the natives should misconstrue, and any of them make an improper use of this Regulation) it was at the same time ordered, that the Europeans were not to be dispossessed of what ground they now occupied without the resident's sanction, and to enable him to pass his determination in all such cases, an account was ordered to be prepared of all such lands in the occupancy of Europeans.—Reg. XXXIII., 1795, sec. ii.

2. On the 22nd of March, 1795, the resident notified to all the aumils by a circular order, that as it was contrary to the intentions of Government that any part of the public revenue should be paid (excepting in amauny villages) through the medium of any Europeans, either for the ground in which they cultivated the indigo or on any other account, they (the aumils) were prohibited from receiving the revenue through any other channel than that of the native zemindars or farmers holding pottahs from Government, leaving it to them to settle with those who were indigo planters according to the existing engagements between the parties.—Reg. XXXIII., 1795, sec. iii.

3. *First.* On the grounds set forth in the preamble to this Regulation, and with a view to obviate or provide against the numerous complaints which the planting and manufacturing of indigo by British subjects had occasioned, the rules contained in the following clauses were passed by Government on the 23rd of May and the 4th of July, 1794.

*Second.* "*Art* 1*st.* That all existing leases of lands for the purpose of cultivating indigo, actually and bonâ fide obtained before the 20th of March, 1794, by any European, be allowed to remain in force until they expire, provided the term of them shall not extend beyond the period of the decennial settlement.

*Third.* "*Art.* 2*nd.* That all leases obtained directly or indirectly by Europeans, either in their own names or those of others, since the 20th day of March, 1794, be declared null and void, and that the lessees be immediately dispossessed.

*Fourth* "*Art.* 3*rd.* That, in future, no new leases for lands shall be entered into, directly or indirectly, by any European, and that any such leases shall be void, and the lessee not only be dispossessed, but liable to be ordered immediately to Calcutta.

*Fifth.* "*Art.* 4*th.* After the expiration of the last year of the decennial settlement, no European shall be permitted to rent or hold any land, directly or indirectly, either in his own name or that of others. This rule, however, is not to extend to land not exceeding fifty begahs, which Europeans shall be permitted to purchase or rent, for the purpose of erecting dwelling-houses, or buildings for carrying on manufactures, provided they previously obtain the sanction of the Governor-General in Council, through the resident, to purchase or rent the land.

*Sixth.* "*Art.* 5*th.* If any native servant, or dependent of any British subject, or other European, shall intercept on the road, or otherwise unduly seize, any bhoosa or other property, he shall, on the party injured complaining to the resident, and on the latter's seeing sufficient ground for such a mode of procedure, be committed by him for trial for such violence to the Foujdarry Court, and besides suffering such punishment (in case of conviction) as the Court may inflict, such servant shall be thereon rendered incapable of entering again within the district into the service of any British-born subject or other European, in any capacity whatsoever; and in all cases of undue seizure of bhoosa, or other property, as aforesaid, by any British subject or subjects, or by his or their servant or servants, on their behalf, it shall be the duty of the resident, on the receipt of any complaint to this effect, to enter on a summary inquiry into the circumstances of the case; whereupon every such British subject shall strictly and without reserve conform to any requisition or order that he (the resident) may thereon issue, for full restitution of the bhoosa, or other article, so detained, to the proper owner, as well as for the paying to the latter such indemnification and damages as the resident may award.

*Seventh.* "*Art. 6th.* In the event of the servants of any British subject attempting to press into, or forcibly carry away for, their master's service, any artificers, workmen, or labourers, they shall be liable for every such offence to be themselves apprehended by the proper local officers of Government, and brought thereon to such trial or punishment as the laws of the country point out, besides being, in all cases where conviction shall ensue, rendered incapable (in like manner as is expressed in Clause Sixth) of acting again in the service of any European.

*Eighth.* "*Art. 7th.* No British subject shall be permitted to cut down any trees, unless the owner shall have previously and voluntarily sold them to him, and executed to him a writing attested by two credible witnesses, expressing his consent to the sale of the trees and the price of them.

*Ninth.* "*Art. 8th.* The Regulations of the 7th March last, prohibiting all epistolary correspondence between the resident or the native judges of the several Courts and parties in suits or complaints brought before them, it is directed, with a view to facilitate the resident's inquiring into and settling the frequent and various complaints that are preferred in respect to the indigo cultivation and manufacture, that the several persons concerned in it shall at all times have in attendance in the resident's cutcherry, well-informed vakeels on their respective parts, properly authorized and instructed to deliver competent answers to, and explanations, in the Hindovee tongue, of such allegations as may from time to time be brought by any of the natives against their constituents or their servants.

*Tenth.* "*Art. 9th.* No European shall seize or confine an individual ryot or other person, or do any of the acts which their servants are prohibited doing by these Regulations; and where it shall be proved, to the satisfaction of the resident, that the servants of any such British subjects have done any such acts, by the orders, or with the connivance or knowledge of their masters, the latter shall be held responsible for the act, and shall be considered to have committed a breach of the Regulations.

*Eleventh.* "*Art. 10th.* Every European indigo planter shall sign, and personally engage for the adherence to, the above articles, or any other Regulations that may be hereafter enacted respecting them, under the penalty of five hundred rupees for the first offence, and of being sent to Calcutta for the second.

*Twelfth.* "*Art. 11th.* No European is to take up his abode in the zemindary of Benares without the sanction of the Governor-General in Council. The resident is to send any person guilty of a breach of this rule to Calcutta."—Reg. XXXIII., 1795, sec. iv.

4. The resident was, at the same time, desired to afford every encouragement to Europeans in procuring the indigo plant to be raised for them, at a given rate for every begah or bundle, by contract with the ryots or aumils; with this caution to be observed in regard to the latter, that they were not to be permitted to avail themselves of their official influence as aumils, to compel ryots, or any individual, to plough or work upon the lands against their inclination, or to exercise any undue authority whatever in the management of the concern.—Reg. XXXIII., 1795, sec. v.

5. On the 1st July, 1794, the aumils and the people of the country at large were furnished with a translation of the preceding rules, and at the same time apprized that Government had no immediate concern whatever in the provision of the indigo, and that the above measures had been adopted solely upon the ground that the introduction of a new and valuable article of produce could not fail to be productive of advantage both to the cultivators and proprietors of the soil, as well as to the merchants, provided the trade in it could be conducted without prejudice to individuals, or to the good order and government of the country.—Reg. XXXIII., 1795, sec. vi.

6. *First.* On the promulgation of the prohibition in para. 1, it was set forth on behalf of several Europeans, that previous to the date thereof they had obtained fair and voluntary engagements from sundry zemindars and others, for a certain extent or number of begahs for the cultivation of indigo; and therefore requested that orders might be issued for the ground in question being measured out, and delivered over to them, for the term allowed of under Clause Second, para. 3, which the resident did accordingly admit of and order on the 7th of June, 1794; in as far as the land thus found to be fairly contracted and engaged for, previous to the order of prohibition, might not be liable to all or either of the grounds of objection in the following clauses, the existence of which was to bar the Europeans' possession of the lands in question.

*Second.* "*Art. 1st.* The engagement or contract for the delivery of the ground to the Europeans must issue and be from the party or parties holding the pottahs of Government, and not merely from their putteedars, as the subordinate partners of such pottahdars are not authorized to introduce, without the concurrence of the Government's pottahdar, any ryot, and still less a natural-born British subject, into the possession or cultivation of any part of the territory included under such pottah.

*Third.* "*Art. 2nd.* In consideration that the Governor-General in Council hath prohibited any British subject from holding farms of revenue, and as, in fair construction, any pottahdar of Government making over all the territory under the pottah to any British subject would be equivalent

to such a taking in farm as is meant to be forbidden, therefore no pottahdar is, out of the grounds included under such pottah, to be allowed to make over to any European a larger proportion than shall be suitable to the moderate idea of a ryotty tenure.

*Fourth.* "*Art.* 3*rd.* A pottahdar of Government is not to be deemed competent to grant to any natural-born British subject for the cultivation of indigo, the grounds of any chupperbund or khud kasht ryot, unless on the condition of such settled ryot's razeenamah being previously delivered into the office of the resident, under the attestation of the canongoes.

*Fifth.* "*Art.* 4*th.* As the aumil is in the amauny or unsettled villages of each pergunnah in the stead and place of the pottahdars of Government, such aumils are, as far as regards the granting of any grounds therein to any European for the cultivation of indigo, to consider themselves as bound to be governed by the same qualifications, restrictions, and conditions as are provided and specified in the three preceding clauses and articles for the guidance of the pottahdars in similar instances; nor is any aumil to make such grants out of the cutcha lands without the privity and consent of the canongoes, who are to attend, in every such instance, to the due and full observance of the requisitions thus made."

*Sixth.* The notification comprehended in this rule was confirmed by the Governor-General in Council under date the 4th of July, 1794.—Reg. XXXIII., 1795, sec. vii.

7. *First.* On the 12th of July, 1794, a circular notification was published by the resident, announcing to the natives that the Governor-General in Council had no objection, but rather wished to encourage their entering into contracts with Europeans to raise for them the indigo plant, and to deliver it to them when ready to be cut and transported to their manufacturing-houses; subject, however, to the conditions in the clauses under mentioned:

*Second.* "*Art.* 1*st.* That only the pottahdars of Government (or in amauny lands the aumil) be competent to enter into such contracts with Europeans; which condition has, however, been since modified as under the next paragraph.

*Third.* "*Art.* 2*nd.* That even pottahdars of Government shall not be competent to apply the grounds occupied in husbandry by chupperbund or khud kasht ryots not in balance as to their rent, to raise indigo on, without the latter's full and free consent."—Reg. XXXIII., 1795, sec. viii.

8. *First.* But on a representation being made by some of the indigo planters, that the prohibition in Clause Second, paragraph 7, would prove highly prejudicial to them, and particularly expose them to undue exactions on the part of the pottahdars of Government; at the same time that they offered to hold the produce of the indigo crops at all times bound for the payment of the amount of the contract rates for which they should have agreed, so as always to prove an adequate security to the pottahdar or pottahdars of Government, for the jumma of the part of his or their zemindary or farm planted with indigo; Clause Second, paragraph 7, was, with a view to the promotion and general increase of cultivation, declared on the 22nd July, 1794, to be repealed, so far as that Europeans were pronounced at liberty to enter into contracts, on the above conditions, with the chupperbund or khud kasht ryots, or with putteedars whose puttees might be distinct and separate, and have been divided off from the pottahdar's part of the estate, for cultivating, sowing, and rearing the indigo plant by their own labour, within their respective limits of cultivation, in the same manner as is allowed to pottahdars under paragraph 7.—Reg. XXXIII., 1795, sec. ix., cl. 1.

*Second.* Where such indigo cultivation as is described under the first clause of the present rule shall take place in spots where hitherto the rent of the land payable by the ryot has been the moiety or other proportion of the produce, the canongoes shall in all such cases fix the money assessment which is to be, on an indigo crop, paid by the ryot or joint putteedar to the pottahdar of Government, whilst the indigo manufacturers are to pay to either of the two latter by whom the ground may be possessed the amount for which they shall have contracted.—Reg. XXXIII., 1795, sec. ix., cl. 2.

*Third.* The rules herein contained were declared by the resident to the parties soliciting them to be passed merely by way of experiment, and liable to such future amendment or entire revocation as might hereafter appear necessary, or as Government might at any time direct.—Reg. XXXIII., 1795, sec. ix., cl. 3.

9. The authorities vested in, and duties required to be discharged by, the resident, under the preceding rules, are to be considered as transferred, from the date of their entering respectively into office, to the judges of the City and Zillah Courts, from whose decisions appeals are to lie in all cases allowed by the Regulations.—Reg. XXXIII., 1765, sec. x.

## II.—GENERAL RULES.

NOTE.—The rules for the registry of Indigo contracts are contained in secs. iii. and iv., Reg. XX., 1812, and sec. v., Act XXX., 1838, and will be found under the head of "Registry of Wills and Deeds." The rules of Reg. VI., 1823, were originally enacted for Bengal, but were extended to the other provinces by Reg. V., 1824.

1. If any person shall have given advances to a ryot, or other cultivator of the soil, under a written engagement, stipulating for the cultivation of indigo plant on a portion of land of certain defined limits, and for the delivery of the produce to himself, or at a specified factory or place, such person shall be considered to have a lien or interest in the indigo plant produced on such land, and shall be entitled to avail himself of the process hereinafter provided for the protection of his interests, and for the due execution of the conditions of the contract.—Reg. VI., 1823, sec. ii.

2. If any person, who may have made advances on conditions of the nature above described shall have just reason to believe that an individual under engagement with him is evading, or is about to evade the execution of his contract, by making away with and disposing of the produce otherwise than as stipulated, or that he has engaged secretly or openly to supply the same to another, it shall be competent to such person to present a petition of complaint to the zillah or city judge within whose local jurisdiction the land stipulated to be cultivated with the indigo plant may be situated, filing with the same the original deed of engagement by which the produce may be assigned and engaged to be delivered to himself or at his factory, and certifying in his petition that such deed was voluntarily and bonâ fide executed by the individual complained against.—Reg. VI., 1823, sec. iii., cl. 1.

3. On such petition and original deed of engagement being filed, a summons, or tulub chithee, shall be immediately issued through the nazir in the usual form, requiring the individual named in the petition to attend and answer to the complaint, either in person or by an authorized agent, within such specified period as may in each instance appear reasonable, and which period shall in no case exceed twenty days.—Reg. VI., 1823, sec. iii., cl. 2.

4. The officer entrusted with the execution of the process shall also be instructed to affix a copy of the summons in the village cutcherry, or other place of public resort, and to erect a bamboo on the specific parcel of ground on account of which the claim may have been preferred, and which it shall be the duty of the plaintiff or his agent to point out. By these means sufficient public notice of the claim will be given to enable persons desirous of contesting the plaintiff's right, or of establishing a prior right to the produce of the land, to appear either in person or by an authorized agent before the Court for that purpose, and the failure so to attend, before the summary decision be passed, will be held to bar the claim of any third party founded on any contract for the produce of the land in question, unless it be established by a regular suit.—Reg. VI., 1823, sec. iii., cl. 3.

5. If the officer serving the process shall not be able to execute it on the person of the defendant, he shall nevertheless publish the claim in the manner above directed; and if the defendant shall not appear to answer to the complaint within the period specified in the summons, and no other claim be preferred in bar of that of the plaintiff, the judge or other officer shall, after taking evidence to establish the deed and other allegations of the plaintiff, proceed to the adjudication of the claim, in the same manner as if the defendant had personally appeared.—Reg. VI., 1823, sec. iii., cl. 4.

6. If the defendant or his authorized agent should attend within the period specified, and should deny the execution of the deed of engagement filed by the complainant, proof of the same shall be taken; and if its voluntary execution be established to the satisfaction of the Court, or other tribunal trying the case, and no preferable claim be established by a third party, a summary award shall be made, adjudging to the plaintiff the right of receiving the crop according to the terms of the agreement. The same principle shall be applied if the engagement be admitted, and no satisfactory reason be shown why the defendant should not be held to the performance of his contract.—Reg. VI., 1823, sec. iii., cl. 5.

7. If it be proved that the engagement was not duly and voluntarily executed by the defendant, or if it should appear that the proceeding is otherwise litigious and oppressive, and the claim unfounded, or that the plaintiff had no sufficient cause to warrant his application to the Court, the complaint shall be dismissed, and the plaintiff shall be made liable to the payment of costs, and such reasonable sum in addition as may seem to the judge or other officer trying the case a proper compensation to the defendant for any trouble and annoyance to which he may have been subjected.—Reg. VI., 1823, sec. iii., cl. 6.

8. If it should appear in the course of the inquiry, that the defendant is under engagement for the same land to a third party, notice shall immediately be issued for that party to appear and plead, either in person or by vakeel, and if such person or any third party shall, previously to the

decision of the case, come forward and produce a similar deed of engagement, stipulating for the produce of the same portion of land, the judge or other officer trying the case shall, after such summary investigation as may be necessary, determine whether either of the parties has any just claim to the produce of the land, and if so, which of them may have the prior and better claim; a preference will of course be given to engagements duly registered under the provisions of Regulation XX., 1812. The result of such investigation shall be recorded, and a decree passed, adjudging the question of right between the parties.—Reg. VI., 1823, sec. iii., cl. 7.

9. No defendant, who may attend under the process described in the preceding rules, shall be confined in jail, or be in any manner detained longer than may suffice to take his answer to the claim, and to obtain from him such further explanations as the nature of the answer may suggest. —Reg. VI., 1823, sec. iii., cl. 8.

10. If, pending the summary inquiry in the manner above directed, it shall appear that the plant on the ground is in a state fit to be cut, and will be injured or destroyed if not cut, it shall in such case be competent to the judge, or other officer trying the case, to pass an order for the delivery of the plant to either of the parties, provided that the said party consents and engages to pay to the other claimant (if the summary award should be ultimately in favour of the latter) a specific pecuniary compensation; the amount of such compensation shall be fixed by the judge, or other person trying the case, in communication with the parties, and shall be regulated with reference to the estimated produce of the ground, and to the probable value of such produce when manufactured, and the amount, when so fixed, shall be carefully recorded on the proceedings.— —Reg. VI., 1823, sec. iii., cl. 9.

11. Whenever the right to indigo plant may be contested, and an order shall be passed, under the provisions of the preceding paragraph, for the delivery of indigo plant to one of the parties claiming the same, such party shall not be allowed to cut or remove the indigo plant until he shall have given sufficient security, to the satisfaction of the Court trying the case, to make good any claim that shall be ultimately established to such indigo plant, whether arising from a prior right to the produce of the land, or from an arrear of rent due on account of the specific parcel of land from which the plant may have been produced.—Act X., 1836, sec. ii.

12. Any person in whose favour a summary award shall have been passed for the produce of any defined spot of land, shall be entitled to place a watch over the same, and to prevent the cutting and removal of the plant in any manner contrary to the stipulations of his agreement; and in the event of any attempt being made to cut or remove the plant, it shall be competent to the person holding the decree to apply to the nearest police darogah, and to claim from him the assistance of the police in preventing such removal; it shall, moreover, be the duty of the police officers, and of all other officers, on such a decree being exhibited, to aid the person in whose favour it may have been passed to the utmost of their power.—Reg. VI., 1823, sec. iv., cl. 1.

13. In order that the foregoing rule may not operate to the prejudice of the landholders, who, by the existing Regulations, are authorized to attach the crops for the realization of rents justly due to them, it is hereby provided, that whenever any manufacturer, who may have obtained an award under the foregoing rules, may cause the plant to be cut and taken away, he shall be held responsible, conjointly with the ryot, for any arrear of rent which may have been due on account of the specific parcel of ground from which the indigo plant may have been taken.—Reg. VI., 1823, sec. iv., cl. 2.

14. In cases in which a ryot, who may have received advances and entered into written agreements for the cultivation and delivery of indigo plant, in the manner herein indicated, shall have failed to cultivate the ground specified, or having cultivated it, shall have failed or refused to complete his engagement, or shall have sold, made away with, or transferred the produce to another person, the party with whom such agreement was first made shall be at liberty to institute, at his option, either a summary or a regular suit.—Reg. VI., 1823, sec. v., cl. 1.

15. If the summary process be adopted, and the cause be decided in favour of the plaintiff, the defendant shall be subjected to the payment of the amount of the advances actually received by him, with interest on the same, and the costs of the summary process.—Reg. VI., 1823, sec. v., cl. 2.

16. If no fraud or dishonest dealing be established, and the failure of a ryot or other contractor to execute the stipulations of his engagement by the delivery of indigo plant in the manner stipulated be owing to accident, or to any cause not implying fraud or dishonesty, the penalty to be adjudged against a contractor shall not exceed three times the sum advanced as the consideration for executing the deed, including interest.—Reg. VI., 1823, sec. v., cl. 4.

17. Any person who, having received advances under a written agreement for the cultivation of indigo, shall be desirous, on the expiration of the period of his contract, to settle his account, shall be at liberty, in the event of the proprietor of the factory, or the person acting in his behalf, refusing to settle the same, to present a petition to the Zillah Court; and the judge, after a summary inquiry, in the presence of the parties or their authorized agents, into the merits of the

case, shall, on proof of the expiration of the contract, and of there being no balance due from the petitioner, or if the petitioner shall deposit in Court the amount of any balance that may be adjudged to be due from him, grant the said petitioner a release from his engagement, and shall pay over the amount of any balance that may be deposited by him to the proprietor, or to the person acting in his behalf.—Reg V., 1830, sec. v., cl. 1.

18 If the proprietor or person aforesaid shall refuse to receive the balance awarded to him by the summary process above provided, the judge shall return the amount to the petitioner, leaving the defendant to seek his remedy by a regular suit.—Reg V, 1830, sec. v., cl. 2.

19. When a lawful contract shall have been made between a ryot and another party, by which contract the ryot shall have bound himself to cultivate indigo plant for the other party, or to deliver indigo plant to the other party, and when the other party shall have advanced money to the ryot for the purpose of enabling the ryot to fulfil such contract, then if any other person, knowing that such contract exists, and that such advance has been made, shall prevail upon the ryot to break such contract, the party who made the advance shall be entitled to proceed by civil action against the person who shall have so prevailed on the ryot, as well as against the ryot, and to recover from him or them, jointly or severally, damages to the extent of the injury sustained, together with costs of suit. Provided always, that nothing herein contained shall be construed to give a right of action against any person in consequence of any act which that person may have done for the purpose of procuring payment of a debt or performance of a lawful contract —Act X., 1836, sec iii

20. Summary investigations, under this Regulation, shall be conducted according to the form and in the manner prescribed for the conduct of summary suits for arrears of rent: they shall be either tried by the judge, or be referred to the collector of the district In cases referred to the collector, that officer shall pass a decision on them, instead of sending them back to the judge with a report, and there shall be no appeal from any summary decision passed by those officers respectively, if regularly made, and in a matter duly cognizable under this Regulation it shall nevertheless be competent to any person, whose claim under a deed of engagement for the cultivation and delivery of indigo plant may have been set aside by a summary award, or who may be otherwise dissatisfied with the decision passed on a summary investigation under the foregoing provisions, to institute a regular suit for the recovery of the penalty stipulated in the deed of engagement, or for the establishment of any other claim or interest to which he may deem himself entitled —Reg. VI., 1823, sec vi

21 The Court trying any suit instituted under the provisions herein contained, shall be authorized to examine both the plaintiff and the defendant, whenever the Court shall deem such examination necessary to the ends of justice; and if the award be in favour of the defendant, to assign to the defendant a sum which may be a compensation to him for the expense and loss of time occasioned by the proceeding —Act X., 1836, sec iv.

22 It shall be competent to a zillah or city judge to refer to a principal sudder aumeen or sudder aumeen, according to the amount of their respective jurisdictions, any suit, whether regular or summary, which may be instituted under these provisions, to be inquired into and decided by the said principal sudder aumeen or sudder aumeen, in the same manner and under the same rules as such suit may be inquired into and decided by a zillah or city judge, anything in the existing Regulations to the contrary notwithstanding.—Act X., 1836, sec. v

23. No objection shall be taken against any deed of contract for the cultivation and delivery of indigo plant on account of its not bearing the proper stamp, provided that the same be executed on paper bearing a stamp of such an amount as would be required under the rules of Schedule A, Regulation X, 1829, for a bond of the amount actually advanced or acknowledged to be advanced, as the consideration for entering into the agreement —Reg VI, 1823, sec. vii.

24 No objection shall be taken to the validity of any deed of engagement for the cultivation and delivery of indigo plant, on the ground of its having been entered into by more than one individual, or of its including more than one transaction, provided that the obligation of each individual be distinctly specified, and the amount of the stamp be such as would have been required for a bond of an amount equal to that of the aggregate of all the sums acknowledged to have been advanced.—Reg. VI., 1823, sec. viii.

25. Persons wilfully damaging, or causing to be damaged, indigo plant, by allowing cattle to trespass thereon, or by any other means, shall, on the complaint of the ryot to whom the crop may belong, or of the manufacturer by whom advances may have been made for the cultivation and delivery of the said plant, be liable, on proof of the offence, to such punishment by fine and imprisonment as the magistrate is competent to inflict under Section XIX, Regulation IX, 1807, due regard being had to the nature of the case, and the circumstances in life of the offender — Reg V., 1830, sec iv.

# FERRIES, TOLLS, AND CANALS.

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# FERRIES, TOLLS, AND CANALS.

## I.—FERRIES.

1. The collectors of revenue will refrain from exercising any interference with the public ferries, the immediate superintendence of which shall be vested in the magistrates and joint magistrates.—Reg. VI., 1819, sec. ii., cl. 2.

2. No ferries shall be hereafter considered public ferries, except such as may be situated at or near the sudder stations of the several magistrates or joint magistrates, or such as may intersect the chief military routes, or other much frequented roads, or such as from special considerations it may appear advisable to place under the more immediate management of the magistrates and joint magistrates.—Reg. VI., 1819, sec. iii., cl. 1.

3. The Government reserves to itself the power of determining, from time to time, what ferries shall, under the preceding rule, be deemed public ferries, and as such shall be subject to the immediate control of the magistrates and joint magistrates; and no magistrate or joint magistrate shall, without previous authority from Government, assume the management of any ferry which may not have been let in farm or held khas, or otherwise subjected to assessment by the collectors. —Reg. VI., 1819, sec. iii., cl. 2.

4. It will be the duty of the several magistrates and joint magistrates to prepare lists of the ferries which in their judgment should, under the foregoing rules, be considered to be public ferries, and transmit them, as soon as prepared, through the superintendents of police, for the information and orders of Government.—Reg. VI., 1819, sec. iii., cl. 3.

5. The power of appointing proper persons to the charge of the public ferries is vested in the magistrates and joint magistrates, who are authorized from time to time to issue such orders as they may judge expedient for limiting the rates of toll to be levied at each ferry, for regulating the number and description of boats to be maintained, for preventing exactions, and generally for promoting the efficiency of the police, and the safety and convenience of the community.—Reg. VI., 1819, sec. iv., cl. 1.

6. On proof of any wilful breach of those rules, or of other misconduct on the part of the manjees or other persons in charge of the public ferries, the magistrates and joint magistrates are empowered (independently of any punishment to which the parties may subject themselves under the general Regulations) to remove such individuals and to appoint others in their room.—Reg. VI., 1819, sec. iv., cl. 2.

7. The manjees or other persons who may be vested with the charge of public ferries are to engage to cross free of toll the troops of Government, with their baggage and military stores, as well as all police and other native officers of Government who may be actually employed on the public service.—Reg. VI., 1819, sec. iv., cl. 3.

8. A list of all public ferries, bearing the signature of the magistrate or joint magistrate, shall be constantly stuck up in some conspicuous place in their cutcherries, and in that of the collector of the district, and likewise in the thannah within the jurisdiction of which they may be situated. —Reg. VI., 1819, sec. v.

9. Such ferries shall exclusively belong to Government, and no person shall be allowed to employ a ferry-boat plying for hire at or in their immediate vicinity, without the previous sanction of the magistrate or joint magistrate: provided, however, that due attention shall be paid to all claims for compensation which may be preferred by individuals for any loss which may be sustained by them in consequence of the extension of the authority of Government to ferries hitherto under their private management, and which may not have been heretofore let in farm or held khas, or otherwise deemed subject to assessment on account of Government.—Reg. VI., 1819, sec. vi., cl. 1.

10. Claims of that nature shall be inquired into by the magistrates and joint magistrates, and their opinion on the merits of each case, shall be reported through the channel of the superintendents of police, for the consideration and orders of Government.—Reg. VI., 1819, sec. vi., cl. 2.

11. In assuming the management of public ferries, the general objects of the magistrates and joint magistrates shall be, the maintenance of an efficient police, the safety and convenience of travellers, the facility of commercial intercourse, and the expeditious transport of troops. For the

above objects, they shall be careful to provide or cause to be provided safe and commodious boats; they shall fix the rates of toll on a very moderate scale, in no case exceeding, without an indispensable necessity, the rates which prevailed previous to the enactment of Regulation XIX., 1816; they shall adjust the modes of payment, so that the tolls may bear as lightly as possible on the poorer classes of the community, and by leaving a fair profit to the individual who may be chosen for the immediate charge of the ferries, they shall endeavour to secure as far as possible the services of respectable and competent persons.—Reg. VI., 1819, sec. vii., cl. 1.

12. No collections shall be taken on account of Government, from the proceeds of any ferry, until the above objects are fully secured; and if in any case there shall remain a clear surplus profit, after providing adequately for those purposes, the amount collected shall be applied solely to the furtherance of similar objects, such as the repair or construction of roads, bridges, and drains, the erection of seraees, or other works of a like nature.—Reg. VII., 1819, sec. vii., cl. 2.

13. In cases of the latter description, viz. those in which the receipts of any ferry shall be sufficient to afford a surplus revenue as above mentioned, the magistrate or joint magistrate, having previously received special authority from Government in that behalf, may and shall require the person holding or applying for the charge of the ferry, to enter into an engagement for the payment, by monthly or quarterly instalments, of such a sum of money, as with reference to the estimated surplus, may appear justly demandable, without risking the primary objects above indicated; and if any person in charge of a ferry shall refuse to enter into an engagement as aforesaid, and shall not assign sufficient cause for such refusal to the satisfaction of the magistrate or joint magistrate, it shall be competent to such officer, to transfer the charge of the ferry to any other respectable and competent person: provided, however, that no person in charge of a ferry, who shall otherwise conduct himself to the magistrate's satisfaction, shall be removed from his charge under the above rule, excepting at the expiration of the Bengal or Fussily year, according to the era current in the province.—Reg. VI., 1819, sec. vii., cl. 3.

14. The mode in which collections made under these rules shall be paid, whether into the treasury of the magistrate or collector, or any other public officer, shall be determined by the orders of Government, and adjusted with the party by the magistrate or joint magistrate, at the time of giving him charge of the ferry or ferries intrusted to him: provided, however, that, as a general rule, all persons in charge of ferries subject to the payment of a rent shall, on discharging any instalments, receive and be directed to require receipts for the amount, which shall be countersigned by an European officer of Government.—Reg. VI., 1819, sec. vii., cl. 4.

15. The magistrate or joint magistrate shall be competent to take security for the good behaviour of persons vested with the charge of public ferries, and in the case of persons who may, under the provisions of the foregoing rule, enter into an engagement for the payment of a yearly rent, it shall likewise be competent to the officers aforesaid to require adequate security for the punctual payment of the amount as it may become due.—Reg. VI., 1819, sec. viii.

16. Any person in charge of a public ferry, whether subject to the payment of rent or not, shall be at liberty to relinquish the charge on giving ten days' notice to the magistrate or joint magistrate, and on paying any arrears that may be due: provided, however, that it shall in such case be competent to the magistrates or joint magistrates to require any person who may so relinquish the charge of a ferry, or who may be removed from such charge, to transfer the boats belonging to the ferry to the person who may be appointed to succeed him, at a fair valuation, or to retain the boats until others can be provided, making a suitable compensation to the owner.—Reg. VI., 1819, sec. ix.

17. If any person having charge of a ferry, and subjected to the payment of a yearly rent, shall fail to discharge the amount as it may become due, he shall be liable to immediate removal, and the magistrate or joint magistrate, after ascertaining the arrear and certifying the default, will proceed to the recovery of the amount from the party and his surety, in the manner prescribed by Section VII. Regulation XVIII., 1817, for the recovery of public money embezzled by native officers of the civil and criminal courts; giving at the same time a liberal consideration to any pleas which the party may urge in explanation of the default.—Reg. VI., 1819, sec. x.

18. All persons vested with the charge of public ferries, whether paying any rent or not, shall, on accepting the situation, be distinctly apprized that the magistrates and joint magistrates reserve to themselves the power of reducing the rates of toll, or extending the exemptions from the payment of it, at such times and in such manner as shall appear proper, with a view to the public good: provided, however, that in the event of any such measures being adopted, the party in charge of the ferry may relinquish the charge, and the magistrate shall in such case purchase from him at a fair valuation, or cause his successor so to purchase, all boats belonging to the ferry, with all articles thereunto appertaining.—Reg. VI., 1819, sec. xi.

19. Provided, also, that whenever a magistrate or joint magistrate shall adopt such measures in regard to any ferry for which a rent shall have been required from the person vested with the charge of it, the said magistrate or joint magistrate shall, in communicating his orders to the party

aforesaid, at the same time apprize him whether he designs to allow any and what reduction in the stipulated rent.—Reg. VI., 1819, sec. xii., cl. 1.

20. If the person in charge of the ferry shall not be willing or able to pay the rent so fixed by the magistrate or joint magistrate, he shall nevertheless immediately carry the magistrate's or joint magistrate's order into effect, and shall state in his reply to those orders the amount of rent which he may be willing to continue to discharge. Should the offer of the party in charge of the ferry appear inadequate, it shall be competent to the magistrate or joint magistrate to remove him and to place another person in charge of the ferry, purchasing the boats and their appurtenances as aforesaid; but the person so removed shall be required to pay, for the days during which he may retain charge, subsequently to the date of his reply to the magistrate's order, a proportionate rent, calculated at such rate only as he may have tendered.—Reg. VI., 1819, sec. xii., cl. 2.

21. The foregoing rules are intended to apply exclusively to those ferries which may be declared to be public ferries; with regard to all other ferries, the magistrates and joint magistrates shall not interfere with them, further than may be necessary for the general maintenance of the police, and for the safety of passengers and property.—Reg. VI., 1819, sec. xiii., cl. 1.

22. Provided, however, that if any person shall be drowned or exposed to imminent danger, or if any property shall be lost or damaged by the oversetting or sinking of a ferry-boat, and it shall be established on inquiry before the magistrate or joint magistrate, that the boat was overloaded with passengers or property, or was insufficiently manned, or was out of repair at the time of the accident, the manjee of the ghaut or boat, if duly convicted of permitting his boat to be overloaded, or to be insufficiently manned or out of repair, shall be liable to such punishment as the magistrate or joint magistrate may think proper to impose, not exceeding imprisonment for six months, or a fine of two hundred rupees.—Reg. VI., 1819, sec. xiii., cl. 2.

23. An annual statement, made up to the first of January of each year, shall be forwarded by the several magistrates and joint magistrates to the superintendents of police, exhibiting the number of public ferries in each district, the amount of the net assessment realized from such of them as may be subject to assessment, and the purposes to which the amount so realized may have been appropriated under para. 12. In submitting to Government the results of those statements, the superintendents of police will offer any suggestions which may appear to them calculated to facilitate or to improve the practical operation of the system.—Reg. VI., 1819, sec. xiv.

## II.—TOLLS ON PUBLIC ROADS AND BRIDGES.

1. The Governor of the presidency of Fort William in Bengal, the Lieutenant-Governor of the North-Western Provinces of Bengal, the Governor of the presidency of Fort St. George in Council, and the Governor of the presidency of Bombay in Council, may cause such rates of toll, not exceeding the rates mentioned in the schedule hereunto annexed, as they respectively think fit, to be levied upon any road or bridge which has been or shall hereafter be made or repaired at the expense of the Government; and may place the collection of such tolls under the management of such persons as may appear to them proper: and all persons employed in the management and collection of such tolls shall be liable to the same responsibilities as would belong to them if employed in the collection of the land revenue.—Act VIII., 1851, sec. ii.

2. In case of non-payment of any such toll on demand, the officers appointed to collect the same may seize any of the carriages or animals on which it is chargeable, or any part of their burden of sufficient value to defray the toll; and if any toll remains undischarged for twenty-four hours, with the cost arising from such seizure, the case shall be brought before the officer appointed to superintend the collection of the said toll, who may sell the property seized for discharge of the toll and all expenses occasioned by such non-payment, seizure, and sale, and cause any balance that may remain to be returned, on demand, to the owner of the property; and the said officer, on receipt of the property, shall forthwith issue a notice that at noon of the next day, exclusive of Sunday, or any close holiday, he will sell the property by auction. Provided that if, at any time before the sale has actually begun, the person whose property has been seized shall tender the amount of all the expenses incurred, and of double the toll payable by him, the said officer shall forthwith release the property seized.—Act VIII., 1851, sec. iii.

3. No tolls shall be paid for the passage of troops and military stores and equipages on their march, or of police officers on duty, or of any person or property in their custody; but no other exemption from payment of the tolls levied under these rules shall be allowed.—Act VIII., 1851, sec. iv.

4. All police officers shall be bound to assist the toll collectors, when required, in the execution of these rules; and for that purpose shall have the same power which they have in the exercise of their common police duties.—Act VIII., 1851, sec. v.

5. Every person, other than the persons appointed to collect the tolls under these rules, who

shall levy or demand any toll on any public road or bridge, or for passing through any bazaar situated thereon, and also every person who shall unlawfully and extortionately demand, or take any other, or higher toll than the lawful toll, or under colour of these rules seize or sell any property, knowing such seizure or sale to be unlawful, or in any manner unlawfully extort money, or any valuable thing, from any person under colour of these rules, shall be liable, on conviction before a magistrate, to imprisonment for any term not exceeding six calendar months, or to a fine not exceeding two hundred rupees, any part of which fine may be awarded by the magistrate to the person aggrieved; but this remedy shall not be deemed to bar or affect his right to have redress by suit in the Civil Court of the zillah.—Act VIII., 1851, sec. vi.

6. A table of the tolls authorized to be taken at any toll-gate or station shall be put up in a conspicuous place near such gate or station, legibly written or printed in English words and figures, and also in those of the vernacular language of the district, to which shall be annexed, written or printed in like manner, a statement of the penalties for refusing to pay the tolls and for taking any unlawful toll.—Act VIII., 1851, sec. vii.

7. The tolls levied under these rules shall be deemed public revenue; but the net proceeds thereof shall be applied wholly to the construction, repair, and maintenance of roads and bridges within the presidency in which they are levied.—Act VIII., 1851, sec. viii.

## SCHEDULE.

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|---|---|
| On every four-wheeled carriage on springs ... ... ... ... ... ... | 2 Rupees. |
| On every two-wheeled carriage on springs (except native hackeries) ... ... ... | 1 Rupee. |
| On every native hackery on springs ... ... ... ... ... ... ... | 2 Annas. |
| On every four-wheeled carriage without springs ... ... ... ... ... ... | 6 Do. |
| On every two-wheeled carriage without springs ... ... ... ... ... ... | 4 Do. |
| On every cart and hackery not on springs, and having wheels of less diameter than three feet six inches, and tyres less in breadth than three inches ... ... ... | 8 Do. |
| On every cart and hackery not on springs, and not having wheels of less diameter than three feet six inches, and tyres less in breadth than three inches ... ... ... | 2 Do. |
| Buffaloes or bullocks per head ... ... ... ... ... ... ... ... | 6 Pie. |
| On every elephant ... ... ... ... ... ... ... ... ... ... | 1 Rupee. |
| On every camel ... ... ... ... ... ... ... ... ... ... | 4 Annas. |
| On every horse ... ... ... ... ... ... ... ... ... ... | 1 Anna. |
| On every tattoo ... ... ... ... ... ... ... ... ... ... | 6 Pie. |
| On every score of sheep or goats ... ... ... ... ... ... ... ... | 2 Annas. |
| On every herd of swine per hundred ... ... ... ... ... ... ... | 4 Do. |
| On every mule ... ... ... ... ... ... ... ... ... ... | 3 Pie. |
| On every ass ... ... ... ... ... ... ... ... ... ... | 2 Do. |
| On every palanquin or tonjon with bearers ... ... ... ... ... ... | 1 Rupee. |
| On every palna or small native palanquin with bearers ... ... ... ... ... | 4 Annas. |
| On every native dooly with bearers ... ... ... ... ... ... ... | 2 Do. |
| On every person carrying a load for hire ... ... ... ... ... ... ... | 2 Pie. |

N.B.—Animals drawing any vehicle for which toll can be demanded are not to be also charged with toll.

## III.—TOLLS ON CANALS.

### 1. THE BANKA NULLAH, GOWAH KHAAL, &c.

1. A toll shall be collected on all boats passing through the canal, commonly called the Banka nullah, Gowah khaal, and Narrainpore khaal, in the division of Tumlook, and through the Khoonjopore khaal in the division of Hidgellee, at the following rates:—

| | |
|---|---|
| On all budgerows, pinnaces, bauleahs, or paunsways, whether with passengers or empty ... ... ... | 4 annas per oar. |
| On salt, per 100 maunds, as per chellaun ... ... | 1 rupee 1 anna. |
| On boats of burthen empty ... ... ... ... | 4 annas per 100 maunds' burthen of the boat. |
| On baggage-boats, and boats laden with rice, paddy, and grain of all kinds or earthen ware ... ... | 8 annas per 100 maunds' burthen of the boat. |
| On boats laden with any other articles than those before specified ... ... ... ... ... ... | 1 rupee per 100 maunds' burthen of the boat. |

| | |
|---|---|
| On saul, sissoo, and all other timbers in rafts ... ... | 2 annas per timber. |
| On bamboos in floats ... ... .. ... ... | 4 annas per 100 bamboos. |
| On small boats proceeding with articles for sale or barter at the hauts, bazaars, or gunges, near the banks of the nullah, and not passing through it ... ... | 2 annas on each boat going and returning. |

—Reg. XVIII., 1806, sec. xi.

2. The duty of collecting the tolls on boats passing through the Bankah nullah, Gowah khaal, and Narrainpore khaal, shall be intrusted to the person holding the appointment of salt agent for the division of Tumlook; and the duty of collecting the tolls on boats passing through the Koonjopore khaal, to the person holding the appointment of salt agent for the division of Hidgellee, aided by such native officers as may be required in the discharge of that duty.—Reg. XVIII., 1806, sec. xii.

3. The Board of Revenue is hereby vested with a general control over the collector of the twenty-four pergunnahs, and over the salt agents at Tumlook and Hidgellee, in the discharge of the duty intrusted to those officers respectively, by the above provisions.—Reg. XVIII., 1806, sec. xiii.

### 2. BHAGIRUTTEE, JELLINGHEE, AND OTHER RIVERS.

1. Tolls, at the rates specified in the Schedule No. 1, shall be levied on all boats, timbers, bamboos, rafts, floats, and the like, passing through or within the Bhagiruttee, Jellinghee, Issamuttee, Matabhangah, and Choornee rivers, at such stations or places as the Governor-General may by an order in council from time to time direct. The said tolls shall be levied by such officer or officers as the Governor-General in Council may appoint to collect the same; and the officer or officers so appointed shall act under the immediate control and direction of the Board of Revenue for the Lower Provinces.—Reg. VIII., 1824, sec. ii., cl. 2.

2. The collectors of tolls shall be assisted by such an establishment of native officers as the Government may deem necessary, and in regard to the nomination, appointment, removal, or punishment of such officers, the collectors shall be guided by the provisions of the existing Regulations which define the authority to be exercised in these matters by the collectors of the land revenue; and all rules contained in the existing Regulations applicable to officers intrusted with the charge of public money or records shall be held to be applicable to the subordinate officers on the collector's establishment who may be so intrusted.—Reg. VIII., 1824, sec. iii.

3. The said tolls shall be levied on all boats, whether entering into or returning by the aforesaid rivers, and whether freighted with articles to be imported or exported.—Reg. VIII., 1824, sec. iv.

4. In order to obviate the delay which must be created, if boats liable to tolls, varying according to their burthen, were detained for the purpose of minutely ascertaining their exact capacity, the following rule for determining the tonnage according to which the authorized tolls are to be levied has been prescribed, and is henceforward to be observed.—Reg. VIII., 1824, sec. v.

5. Boats of a burthen not exceeding fifty maunds shall be rated as of twenty-five maunds' burthen, and shall pay the toll appointed for boats of twenty-five maunds' tonnage.—Reg. VIII., 1824, sec. v., cl. 1.

6. Boats of a burthen above fifty maunds, and not exceeding seventy-five maunds, shall be rated as of fifty maunds' burthen, and shall pay the toll appointed for boats of fifty maunds.—Reg. VIII., 1824, sec. v., cl. 2.

7. Boats of a burthen above seventy-five maunds, and not exceeding one hundred maunds, shall be rated as of seventy-five maunds' burthen, and pay the toll appointed for boats of seventy-five maunds, and so on until the tonnage shall exceed five hundred maunds, when the allowance shall extend to fifty maunds; and on boats exceeding one thousand maunds in burthen, the toll chargeable on any portion of one hundred maunds shall be relinquished in the manner shown in the Schedule No. 2, hereunto annexed.—Reg. VIII., 1824, sec. v., cl. 3.

8. No fleet of boats or rafts carrying or floating wood or timbers, exceeding twenty in number, shall pass or enter at one and the same time into, through, or within the aforesaid rivers.—Reg. VIII., 1824, sec. vi., cl. 1.

9 No boat or raft carrying or floating a greater number than twelve timbers, shall at any time be permitted to pass into or through the aforesaid rivers; provided also, that it shall not be lawful for any boat or raft carrying or floating more than six timbers to enter the aforesaid rivers between the 1st of December and the 1st of July.—Reg. VIII., 1824, sec. vi., cl. 2.

10. For every timber which shall be floated, or carried into or through the aforesaid rivers, in violation of any of the rules or restrictions herein appointed, the owner thereof shall forfeit to the Government the sum of ten rupees each timber, besides being subjected to the payment of the

prescribed toll on the same; and it shall and may be lawful for the collector to detain and distrain such a number of boats, timbers, rafts, bamboos, floats, and the like, or such a portion of their freight until the sum due, whether on account of toll or penalty, or both, shall have been liquidated, as he (the collector) shall or may judge sufficient to defray the amount of tolls or penalties demandable; and further, the collector shall require the person in charge of the said boats, timbers, rafts, bamboos, and floats, and the like, to make arrangements for the transit of the same, in conformity with the rules and the restrictions herein contained, and shall detain them for that purpose, until those arrangements will have been made.—Reg. VIII., 1824, sec. vi., cl. 3.

11. Whenever any boats, timbers, rafts, bamboos, and floats, and the like, are detained for any of the reasons above stated, the collector shall without delay make a full report of the circumstance to the Board of Revenue, and shall immediately publish a proclamation, appointing a day for the sale of the articles liable to sale, not being less than fifteen days from the date on which the proclamation may be promulgated: but no sale shall be held, until the authority and sanction of the Board of Revenue for the same shall have been previously obtained; and if it be in any case necessary to postpone the day of sale, the collector is authorized to do so, provided that not less than fifteen days' notice of the time appointed shall invariably be given.—Reg. VIII., 1824, sec. vi., cl. 4.

12. If any person shall attempt to pass free of toll any boat, raft, timber, bamboo, float, or the like, after having been boarded by the collector's toll or choky-boat, such boat, timber, raft, bamboo, float, and the like, shall be liable to detention, until a penalty of ten times the amount of the toll leviable shall have been paid, or shall have been levied by the summary process provided for in the preceding rule.—Reg. VIII., 1824, sec. vii.

13. An officer having been appointed by Government, under the designation of supervisor, to superintend the operations and works necessary to be undertaken and executed for the prevention and removal of all obstructions, by which the free and safe navigation of the rivers specified in paragraph 1 are or may be impeded, the following rules are enacted for the purpose of defining the duties and powers of the said supervisor, and the same rules shall apply to any other officer or officers who may be appointed to perform similar duties on any of the said rivers, or on any other navigable rivers or streams, within the provinces subordinate to this presidency. Provided also, that it shall be competent to the Governor-General in Council, by an order in council, to vest the supervision of the said rivers, or such portion of them as may seem fit, in any of the collectors hereinbefore mentioned, or in any other officer whom he may judge it expedient to appoint.—Reg. VIII., 1824, sec. viii., cl. 1.

14. The supervisor shall ordinarily act under the orders and directions of the Board of Revenue for the Lower Provinces, but it shall be competent to the Governor-General in Council, by an order in council, to vest the control over him in any other board, committee, officer, or officers, as may from time to time appear to be expedient.—Reg. VIII., 1824, sec. viii., cl. 2.

15. The supervisor shall be competent, under the provisions hereafter detailed, to cut down and remove any tree or trees which may have fallen or be likely to fall into the said rivers, to remove sunken boats, or rafts of timber or of bamboos, and other nuisances or obstructions to navigation, of whatever denomination, together with all bandells or other contrivances for fishing, which may tend to obstruct or hinder the navigation of the same, whenever he shall be fully satisfied, after due local inquiry, that the continuance of such tree or trees, sunken boats, or rafts of timber, or bamboos, or bandells, or the like, are or are likely to be seriously prejudicial to the free and safe navigation of the aforesaid rivers.—Reg. VIII., 1824, sec. viii., cl. 3.

16. All trees, or other things, which shall have fallen, or may hereafter fall into any of the rivers or streams mentioned in paragraph 1, or into any other navigable river or stream, so as to endanger or materially impede the navigation thereof, shall be removed as soon as possible by the supervisor or other officer empowered by Government in that behalf; and the supervisor, or other officer aforesaid, is hereby authorized to hew, split, demolish, destroy, or otherwise dispose of all such trees or other things in such manner as the Board of Revenue, or other controlling authority may direct.—Reg. VIII., 1824, sec. viii., cl. 4.

17. In all other cases where it may appear to be necessary to remove any tree, or other obstruction of the nature specified in paragraph 15, excepting as hereinafter excepted, it shall be the duty of the supervisor or other officer aforesaid, in the first instance, to endeavour to ascertain the owner of the tree or other thing which he may propose to remove as aforesaid, and to cause notice to be served on him, requiring the removal of the same within a reasonable period to be specified in the notice. If the owner aforesaid shall be absent or unknown, a notification to the above effect shall be stuck up in some conspicuous place in the nearest village.—Reg. VIII., 1824, sec. viii., cl. 5.

18. If, after notice has been given as aforesaid, the owner of the tree or other thing required to be removed shall not remove the same within the period fixed by the supervisor, it shall be competent to that officer to cause its removal at the public expense, or in cases in which such an arrangement

shall appear advisable, to dispose of it by public sale, subject to the condition of its being removed, and with such further stipulations as may be deemed proper.—Reg. VIII., 1824, sec. viii., cl. 6.

19. In cases of emergency, wherein it may appear to the supervisor or other officer aforesaid, that any delay in removing the tree or other thing to be removed would be attended with serious risk or inconvenience, it shall be competent to him to cause the same to be forthwith removed, without any previous notice as above directed. Provided, however, that in such cases if the thing to be removed be other than a tree actually fallen into the stream, the supervisor or other officer aforesaid, shall, as soon as possible, cause intimation to be given to the owner, or (he being absent or unknown) a notification to be stuck up in the nearest village; and he shall at the same time make an immediate and full report of the case to the Board of Revenue, or other controlling authority.—Reg. VIII., 1824, sec. viii., cl. 7.

20. Provided further, that whenever it may appear necessary for the safety and convenience of the community, that any buildings, trees, or other property on or in the vicinity of a navigable river or stream, though not likely to fall into the stream, should be removed or appropriated to the public use, it shall be competent to the Governor-General in Council to direct the same to be taken and purchased on account of Government, under the rules contained in Regulation I., 1824. —Reg. VIII., 1824, sec. viii., cl. 8.

21. Whenever any tree, boat, timber, or other thing obstructing or likely to obstruct the navigation of any of the rivers or streams specified in paragraph 1, or of any other navigable river or stream, may be sold, subject to the condition of its being removed, under the provision contained in paragraph 16, the net produce of the same shall be paid to the owner.—Reg. VIII., 1824, sec. ix., cl. 1.

22. When any of the things aforesaid shall be removed, or recovered by, or under the orders of the supervisor, or other officer duly empowered in that behalf, under the provisions of paragraph 16, then if the owner shall pay to the supervisor, or officer aforesaid, within a period to be fixed by the Board of Revenue, or other controlling authority, the expense incurred in the removal or recovery thereof, with such a charge for salvage as the Board, or other authority aforesaid, may adjudge, the same shall be given up to the owner or his authorized agent. Provided also, that whenever, after due notice for such a period as the Board of Revenue may have directed, no person shall, within the period appointed, tender reimbursement of the charge incurred in the recovery of property rescued, together with the amount of salvage which the Board of Revenue may adjudge, the supervisor shall be authorized to sell such property at public sale, and to defray out of the proceeds the expense incurred in the recovery of the same, with the salvage adjudged as aforesaid: the surplus to be deposited for the benefit of the owner in such treasury as the Board of Revenue may direct.—Reg. VIII., 1824, sec. ix., cl. 2.

23. No bandells or contrivances for fishing, or for any other purposes which may tend to obstruct the free navigation of the rivers and streams referred to in paragraph 1, or other navigable rivers and streams, for the supervision of which the Governor-General in Council may deem it necessary to provide, shall be allowed or permitted. Whenever the supervisor, with the approval of the Board of Revenue, or other controlling authority, shall have removed any bandell or other contrivance for fishing, which may have been fixed or sunk at any place in the said rivers, to the obstruction of navigation, or shall have prohibited the fixing or sinking of any obstruction within any specified limits, then if any person shall replace the bandells or other contrivances removed as aforesaid, or shall sink or fix any such in opposition to the prohibition of the supervisor, the bandells or other contrivances for fishing so replaced, or fixed or sunk, shall be destroyed, and the party offending shall be liable to such punishment, not exceeding a fine of fifty rupees, or, in default of payment, imprisonment without irons in the debtors' jail for one month, as the magistrate of the district may judge adequate to the offence: provided, however, that if the offender shall have used violence, or been guilty of any breach of the peace, he shall, on conviction, besides any further punishment to which he may be subject under the general laws and Regulations, be liable to imprisonment in the criminal jail, with hard labour, for a period not exceeding three months, and shall be required, at the discretion of the magistrate, to furnish adequate security for keeping the peace.—Reg. VIII., 1824, sec. x.

24. Any person who may by force or threats prevent the collector, supervisor, or any of his or their officers, from fulfilling the duties assigned to them by these rules, or who may forcibly resist them in the execution of those duties, or who may advise or encourage such resistance, shall be liable, on conviction before the Foujdary Court of the district or city, to the penalties prescribed for the offence of resisting the process of a magistrate. Parties so offending shall further be liable, in the event of an affray or other breach of the peace occurring in consequence of their resistance, to be punished under the general rules applicable to such cases.—Reg. VIII., 1824, sec. xi., cl. 1.

25. If the collector, supervisor, or other officer aforesaid, shall in any case have reason to apprehend forcible resistance, he shall apply to the nearest darogah to aid him in the execution of his duty, and all darogahs, or other officers in charge of thannahs or chokees, shall, on such

requisition being made, or its appearing to be otherwise necessary, immediately afford the requisite assistance, under pain of dismissal from office, and such fine, not exceeding two hundred rupees, as the magistrate may adjudge; commutable, if not paid, to imprisonment in the Dewanny jail for a period not exceeding three months. Provided also, that if any zemindar, talookdar, or other proprietor, farmer of land, or the naib gomashtah, or other local agent of such proprietor or farmer shall wilfully permit any one to resist the collector, supervisor, or other officers aforesaid, within the village or lands occupied or managed by him, such zemindar or other person aforesaid shall be liable, on conviction before the magistrate, to a fine not exceeding two hundred rupees, commutable as aforesaid.—Reg. VIII., 1824, sec. xi., cl. 2.

26. The collector, supervisor, and their native officers, duly authorized by him, shall be authorized to arrest and deliver over to the nearest police darogah, or other police officer authorized to receive criminal complaints, any person or persons guilty of any of the offences stated in the two preceding paragraphs, for the purpose of their being forwarded to the magistrate; and all police officers aforesaid are hereby required, subject to the provisions hereinafter specified, to receive and safely to forward to the magistrate of the jurisdiction, within twenty-four hours, all offenders so delivered over. Provided always, that the supervisor or his officers shall give at the same time a written requisition to that effect, duly attested and dated, specifying the name of the offender, the nature of the offence, and engaging that a full report shall be transmitted to the magistrate, and that all other necessary measures for the conduct of the prosecution shall be taken within ten days from the date on which the offender or offenders shall have been apprehended. Provided also, that in such cases, if the party accused shall tender sufficient bail for appearance before the magistrate, and shall not have been guilty of any offence which by the general Regulations is not bailable, the darogah or other officer shall accept the bail, and release the party.—Reg. VIII., 1824, sec. xii.

27. No person shall be detained in custody by a magistrate under the provisions of the preceding rule beyond the period of ten days, if during that period the supervisor shall not have preferred his complaint, and pursued the necessary measures for the furtherance of the prosecution in the prescribed manner.—Reg. VIII., 1824, sec. xiii.

28. Any individual who may consider himself aggrieved or injured by any order of the Board, or by any act of the supervisor, or by his people, in the execution of their public duty under the authority vested in them by these rules, shall be at liberty to institute a suit against one, or either, or all of them, in the Dewanny Adawlut of the city or district in which the imputed injury shall have occurred; and in all such cases the judge of the city or district shall forward such petition or plaint to the Board of Revenue, or other controlling authority, who, together with the zillah and city judges, are hereby required in the conduct of such cases to conform to the rules and provisions contained in Regulation II. of 1814. Provided, however, that if the supervisor or other officer shall not have exceeded the power and licence vested in him by these rules, no suit or plea shall be entertained by any of the Courts of Justice on the ground that the removal of any tree, boat, timber, raft, bamboo, float, or other thing of the description specified in paragraph 16, was not necessary for the furtherance of the free navigation of the rivers herein mentioned, save and except in cases wherein valuable trees may have been cut down; and it shall be proved, after sufficient experience, that there was not any reasonable probability that the land on which they grew would be carried into the river within the period of one year from the date of their being cut: provided also, that if in any case the collector, supervisor, or other officer aforesaid, shall have tendered to the plaintiff an adequate indemnification, the sum so tendered shall be received by the Court for the plaintiff, who shall be nonsuited with costs.—Reg. VIII., 1824, sec. xiv.

29. The supervisor shall be entitled to direct the vakeel of the Government to conduct all criminal prosecutions instituted by him under these provisions, and to defend all civil actions authorized to be defended by the Board of Revenue, or other controlling authority; and the collectors of revenue are hereby authorized to supply the vakeel of Government, on application from the supervisor, with the stamp paper which may be required for the purposes aforesaid.—Reg. VIII., 1824, sec. xv.

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## SCHEDULE, No. 1.

SCHEDULE of TOLLS chargeable on all Boats, Timbers, Bamboos, Rafts, and Floats, and the like passing into or through the Rivers and Streams specified in the preceding rules.

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| 1st.—Pinnaces of ten oars, and under that number ... ... ... | 5 | rupees each. |
| Ditto ditto exceeding ten oars ... ... ... ... | 8 | ditto ditto. |
| 2nd.—Budgerows of ten oars, and under that number ... ... ... | 3 | ditto ditto. |
| Ditto ditto exceeding ten oars ... ... ... ... | 6 | ditto ditto. |

| | |
|---|---|
| 3rd.—Bauleahs, cutters, and boats for personal accommodation, not being of the description above specifically defined, and pulwars, paunsways, and baggage-boats ... ... ... ... | 4 annas per oar. |
| 4th.—Empty boats, and boats laden with bricks, tiles, or other earthen substance baked, or otherwise ... ... ... ... ... | 2 annas per 100 maunds tonnage. |
| 5th.—Boats laden with quick-lime (chunam), straw, fire-wood, gran-sticks, thatching grass, or such like ... ... ... ... | 8 annas per 100 maunds tonnage. |
| 6th.—Boats laden with grain, pulse, seed, or vegetables of whatever description, and indigo seed ... ... ... ... ... | 12 annas per 100 maunds tonnage. |
| 7th.—Boats of burthen, freighted with timbers and bamboos, or with any article not included in the above enumeration ... ... | 1 rupee per 100 maunds tonnage. |
| 8th.—Timbers, whether chowkars or dhokars, if floated on rafts or otherwise, not being on boats ... ... ... ... ... | 8 annas each timber. |
| Unwrought timbers, called ghole, if floated as above ... ... | 5 annas each timber. |
| Rafts floating 200 bamboos, or less ... ... ... ... | 8 annas. |
| Ditto ditto, more than 200, but not more than 400 ... ... | 12 annas. |
| Ditto ditto, more than 400, but not more than 1,000 ... ... | 5 rupees. |
| Ditto ditto, more than 1,000 ... ... ... ... ... | 10 rupees. |

## SCHEDULE, No. 2.

### TABLE FOR ADJUSTMENT OF TONNAGE AND RATES OF TOLLS.

| Tonnage or Measurement of the Boat in Maunds not exceeding | No. of Maunds upon which the Toll is leviable. | TOLLS. | | | |
|---|---|---|---|---|---|
| | | At One Rupee per 100 Maunds. | At Twelve Annas per 100 Maunds. | At Eight Annas per 100 Maunds. | At Two Annas per 100 Maunds. |
| | | Sa. Rs. A. P. | Sa. Rs. A. P. | Sa. Rs. A. P. | Sa. Rs. A. P. |
| 50 | 25 | 0 4 0 | 0 3 0 | 0 2 0 | 0 0 6 |
| 75 | 50 | 0 8 0 | 0 6 0 | 0 4 0 | 0 1 0 |
| 100 | 75 | 0 12 0 | 0 9 0 | 0 6 0 | 0 1 6 |
| 125 | 100 | 1 0 0 | 0 12 0 | 0 8 0 | 0 2 0 |
| 150 | 125 | 1 4 0 | 0 15 0 | 0 10 0 | 0 2 6 |
| 175 | 150 | 1 8 0 | 1 2 0 | 0 12 0 | 0 3 0 |
| 200 | 175 | 1 12 0 | 1 5 0 | 0 14 0 | 0 3 6 |
| 225 | 200 | 2 0 0 | 1 8 0 | 1 0 0 | 0 4 0 |
| 250 | 225 | 2 4 0 | 1 11 0 | 1 2 0 | 0 4 6 |
| 275 | 250 | 2 8 0 | 1 14 0 | 1 4 0 | 0 5 0 |
| 300 | 275 | 2 12 0 | 2 1 0 | 1 6 0 | 0 5 6 |
| 325 | 300 | 3 0 0 | 2 4 0 | 1 8 0 | 0 6 0 |
| 350 | 325 | 3 4 0 | 2 7 0 | 1 10 0 | 0 6 6 |
| 375 | 350 | 3 8 0 | 2 10 0 | 1 12 0 | 0 7 0 |
| 400 | 375 | 3 12 0 | 2 13 0 | 1 14 0 | 0 7 6 |
| 425 | 400 | 4 0 0 | 3 0 0 | 2 0 0 | 0 8 0 |
| 450 | 425 | 4 4 0 | 3 3 0 | 2 2 0 | 0 8 6 |
| 475 | 450 | 4 8 0 | 3 6 0 | 2 4 0 | 0 9 0 |
| 500 | 475 | 4 12 0 | 3 9 0 | 2 6 0 | 0 9 6 |
| 550 | 500 | 5 0 0 | 3 12 0 | 2 8 0 | 0 10 0 |
| 600 | 550 | 5 8 0 | 4 2 0 | 2 12 0 | 0 11 0 |
| 650 | 600 | 6 0 0 | 4 8 0 | 3 0 0 | 0 12 0 |
| 700 | 650 | 6 8 0 | 4 14 0 | 3 4 0 | 0 13 0 |
| 750 | 700 | 7 0 0 | 5 4 0 | 3 8 0 | 0 14 0 |
| 800 | 750 | 7 8 0 | 5 10 0 | 3 12 0 | 0 15 0 |
| 850 | 800 | 8 0 0 | 6 0 0 | 4 0 0 | 1 0 0 |
| 900 | 850 | 8 8 0 | 6 6 0 | 4 4 0 | 1 1 0 |
| 950 | 900 | 9 0 0 | 6 12 0 | 4 8 0 | 1 2 0 |
| 1,000 | 950 | 9 8 0 | 7 2 0 | 4 12 0 | 1 3 0 |
| 1,100 | 1,000 | 10 0 0 | 7 8 0 | 5 0 0 | 1 4 0 |
| 1,200 | 1,100 | 11 0 0 | 8 4 0 | 5 8 0 | 1 6 0 |
| 1,300 | 1,200 | 12 0 0 | 9 0 0 | 6 0 0 | 1 8 0 |
| 1,400 | 1,300 | 13 0 0 | 9 12 0 | 6 8 0 | 1 10 0 |
| 1,500 | 1,400 | 14 0 0 | 10 8 0 | 7 0 0 | 1 12 0 |
| 1,600 | 1,500 | 15 0 0 | 11 4 0 | 7 8 0 | 1 14 0 |
| 1,700 | 1,600 | 16 0 0 | 12 0 0 | 8 0 0 | 2 0 0 |
| 1,800 | 1,700 | 17 0 0 | 12 12 0 | 8 8 0 | 2 2 0 |
| 1,900 | 1,800 | 18 0 0 | 13 8 0 | 9 0 0 | 2 4 6 |
| 2,000 | 1,900 | 19 0 0 | 14 4 0 | 9 8 0 | 2 6 0 |

### 3.—EASTERN CANAL, &c.

1. The Governor of Bengal shall be competent to prescribe the amount of toll, and the mode of levying the same, on boats, rafts, and floats, which shall enter on or pass out of or through either of the two lines of navigation hereinafter described; that is to say,

The Eastern Canal aforesaid, from its entry into the Sunderbunds to its junction with the river Hooghly.

The line made up of the channel across the Salt-water lake to Baminghatta, of the canal leading from the Salt-water lake to the Boitakhanna road, and of the new circular canal which connects the last-mentioned canal with the river Hooghly.—Act XXII., 1836, sec. ii.

2. The aggregate amount of toll levied on account of the whole passage along either of the two lines aforesaid, or on account of entering into or passing out of either of the two lines aforesaid, shall in no case exceed one rupee and a half for every hundred maunds' burden on any boat, or two annas for every timber on every raft of timber, or four annas for every hundred bamboos on every float of bamboos.—Act XXII., 1836, sec. iii.

3. The said Governor shall be competent to appoint officers for the collection of the tolls and rent herein before mentioned, and to confer on such officers, for the purpose of preventing acts whereby either of the said lines of navigation may be obstructed, or whereby the banks along either of the said lines of navigation may be damaged, any or all the powers possessed by magistrates in respect to navigable streams and rivers.—Act XXII., 1836, sec. v.

4. Whoever wilfully causes any obstruction of either of the said lines of navigation, or any damage to the banks along either of the said lines of navigation, shall be punishable, on conviction before the magistrate, with imprisonment for a term not exceeding fourteen days, or fine to an amount not exceeding fifty rupees, or both; and in default of payment of such fine, with additional imprisonment for fourteen days.—Act XXII., 1836, sec. vi.

5. Notifications of the rates of toll and rent, and of the places of collection, and of all rules made by the said Governor under the authority given to him by this Act, shall be published in the Calcutta "Gazette," and exposed to public view at every toll-house on either side of the said lines, in the English, Persian, and Bengalee tongues.—Act XXII., 1836, sec. vii.

6. If the toll or rent due in respect of any boat, raft, or float, on either of the said lines, shall not be paid on demand to an officer authorized by the said Governor to receive the same, it shall be lawful for such officer to seize such boat, raft, or float, and the cargo thereof, and to detain the same; and if the said toll or rent shall have been paid upon any day before the tenth day after such seizure, then the said boat, raft, or float, shall be released; or if not paid within the said ten days, it shall be lawful for such officer, with the sanction and under the directions of the superintendent of canals, to sell the property seized, or so much thereof as the said superintendent shall direct, for the purpose of satisfying the toll or rent which may be due, and also of defraying the expenses of seizure and detention; and in every such case so much of the property seized which has not been sold, and so much of the price of the property sold, as is in excess of the sum necessary for satisfying the toll or rent which is due, and for defraying the expenses of seizure and detention, shall be returned to the owner of the boat, raft, or float.—Act XXII., 1836, sec. viii.

7. If any person in charge of any boat, raft, or float, shall attempt to evade payment of the toll or rent due thereon, or shall resist a seizure made by the authority and under the circumstances hereinbefore described, such boat, raft, or float, and the cargo thereof, shall be forfeited to the Government, under orders of the superintendent, subject to appeal to the commissioner of revenue and police.—Act XXII., 1836, sec. ix.

8. The Governor of Bengal shall be competent to prescribe the length of time during which boats, rafts, or floats may remain in part of either of the lines of navigation aforesaid without paying rent or demurrage, and also the rate of rent or demurrage to be levied on any boat, raft, or float which shall remain therein longer than the prescribed time.—Act X., 1853, sec. ii.

9. The provisions of paragraphs 5, 6, and 7, so far as they apply to rent, are hereby extended to the rent or demurrage to be prescribed in pursuance of this Act.—Act X., 1853, sec. iii.

### CANALS IN THE NORTH-WESTERN PROVINCES.

1. The Lieutenant-Governor of the North-Western Provinces shall be competent, by proclamation to be made in the Government Gazette, to declare the provisions of this Act applicable to any such canal.—Act VII., 1845, sec. i.

2. The said Lieutenant-Governor of the North-Western Provinces shall be competent to draw out rules to regulate the levy of water-rent, and the supply of water for irrigation, and the payment of tolls and dues on boats, rafts, or floats, and admission to the benefits of navigation on such canals, as may be found most suitable to the peculiar circumstances of each. The rules thus drawn out shall be published for general information in the Government Gazette.—Act VII., 1845, sec. ii.

3. Any acts done by private individuals in contravention of the rules so published shall be punishable either by temporary deprivation of the benefits of the canal, or by the penalties hereinafter described.—Act VII., 1845, sec. iii.

4. All balances of water-rent due for lands irrigated by the canal shall be levied, either by temporary deprivation of the benefits of the canal, or by the same process as is prescribed for the recovery of balances of land revenue.—Act VII., 1845, sec. iv.

5. Whoever wilfully causes any obstruction to any of the said canals, or to any of the water-courses drawn and supplied therefrom, or damages the banks of the canal or the works constructed for its maintenance, or wilfully defiles the water in the canal, shall be liable to the penalties hereinafter described.—Act VII., 1845, sec. v.

6. All persons offending against the provisions of this Act, or of the rules passed under this Act, shall be punishable, on conviction before the magistrate, by imprisonment without labour for a term not exceeding fourteen days, or fine to an amount not exceeding fifty rupees, or both; and in default of payment of such fine, by additional imprisonment for fourteen days.—Act VII., 1845, sec. vi.

7. If the owner of any boat, float, or raft, navigating any such canal, shall refuse to pay the prescribed toll, it shall be lawful for the officer charged with the levy of tolls on the canal, to detain such boat, raft, or float, and if the toll be not paid in the course of ten days, then it shall be lawful for the said officer under the direction of the superintendent of the canal, on the tenth day after the seizure, to sell such property, or so much thereof as may be necessary, or to declare the whole confiscated; provided that, in all such cases, no confiscation shall be carried into effect till the circumstances have been reported to the commissioner of the division and his sanction obtained thereto.—Act VII., 1845, sec. vii.

8. It shall be lawful for the Lieutenant-Governor of the North-Western Provinces to appoint officers for the collection of the rent, toll, and dues, hereinbefore mentioned, and to confer on such officers the powers of deputy collectors for the levy of such rent, and of joint magistrates for the enforcement of such penalties as have been hereinbefore specified.—Act VII., 1845, sec. viii.

# STONE QUARRIES IN BENARES.

## TABLE OF ENACTMENTS.

| Original Regulation. | Paras. in Consolidation. | REMARKS. |
|---|---|---|
| 1795. XXII. lxxxii. 4. | 14 | Incorporated with sec. xiv., Reg. II., 1800. |
| 1800. II. ii. to xiv. | 1 to 14 | Part of sec. ii. omitted under 3 & 4 Wm. IV., cap. 85, secs. 81 to 84. |

1. All native inhabitants of the Company's provinces, and all other persons, are hereby declared at full liberty to excavate stones of every description from the quarries at Chunar, Ghazeepore, and Mirzapore, subject to the provisions contained in the following paragraphs.—Reg. II., 1800, sec. ii.

2. On all stones excavated from the quarries specified in the preceding paragraph, a fixed duty shall be paid to Government, previously to the removal of the stones from the vicinity of the quarry where they may have been cut according to the under-mentioned rates, viz.

*First.* On the under-mentioned eight descriptions of stones, at whichever quarry excavated, the duty to be as follows:

| *Descriptions of Stones.* | *Rates of Duty.* Rs. | As. | |
|---|---|---|---|
| Dhoka, or small stones of various dimensions, usually sold by the 100 maunds | 2 | 4 | per 100 maunds. |
| Kolhoo, or sugar-cane mill-stones, 1st sort, called burheea | 8 | 0 | per stone. |
| 2nd sort, called surhee | 7 | 0 | ditto. |
| 3rd sort, called kolhoo bindra chul | 5 | 0 | ditto. |
| Janta, a species of hand-mill stone | 12 | 8 | per 100 pieces. |
| Chukkee ..... ditto | 6 | 4 | ditto. |
| Sil ..... ditto | 4 | 14 | d tto. |
| Ditto, 2nd sort, less than a foot in breadth | 3 | 4 | ditto. |

*Secondly.* On all other descriptions of stones the duty to be regulated by their solid contents in length, breadth, and th ckness, as follows:

| | Rs. | As. | Pe. | |
|---|---|---|---|---|
| Stones quarried at Chunar and Ghazeepore, and not exceeding in their solid contents four cubic feet | 0 | 2 | 8 | per cubic foot. |
| Ditto ditto, above four and not exceeding five cubic feet | 0 | 4 | 0 | per ditto. |
| Ditto ditto, exceeding five ditto | 0 | 5 | 0 | ditto. |
| Stones quarried at Mirzapore, of whatever dimensions | 0 | 2 | 6 | ditto. |

—Reg. II., 1800, sec. iii.

3. For the more full and ready information of stone-cutters and others, the collector of Benares is directed to prepare, in the Persian and Hindostance languages, a detailed statement of the several descriptions of stones usually quarried at Chunar, Ghazeepore, and Mirzapore, showing the amount of the duty upon each, calculated according to the rates prescribed in the preceding paragraph; and to keep the same constantly affixed in his cutcherry, as well as in some conspicuous place at each of the quarries, under the inspection of the darogahs to be stationed at them respectively.—Reg. II., 1800, sec. iv.

4. The duty specified in paragraph 2 is to be paid into the treasury of the collector of Benares; who, on receipt thereof (or in the event of the collector's absence, his head assistant on the spot), is to grant a rowannah, under his official seal and signature, directed to the darogah of the station where the stones may have been quarried, specifying the exact quantity and descriptions of stones for which the duty may have been paid, and authorizing their removal from the quarry in consequence. This rowannah is to be delivered by the party receiving the same to the darogah to whom it is addressed, and to be kept by the latter as his authority for allowing the removal of the stones therein specified.—Reg. II., 1800, sec. v.

5. To enable the collector to grant rowannahs as above directed, the party applying for the same shall, with his application, and at the time of paying the duty, deliver an exact list of the stones which have been quarried and for which the rowannah is desired, specifying the name of the quarry, the number and descriptions of the stones, and their weight, number of pieces, or solid contents (according as the duty may be payable upon either in conformity to paragraph 2), with any other particulars contained in the detailed statements to be prepared and published by the collector in pursuance of paragraph 3, which statements are to be considered by all persons applying for rowannahs as the prescribed forms for the lists herein required from them. To facilitate the preparation of such lists, and to prevent inaccuracies which might delay the removal of the stones and adjustment of the duties thereupon, it is further hereby provided, that when any quantity of stones may have been quarried, and the quarrier, or any person in his behalf, or to whom he may have sold or otherwise transferred the same, shall be desirous of obtaining a rowannah for their removal, the darogah of the quarry, with whom a sufficient number of measures are to be stationed for this purpose, shall, on application, cause the stones for which the rowannah may be desired to be accurately counted, weighed, or measured (according as the duty may be payable on the number, weight, or measurement), in the presence of the owner of the stones, or of such person as he may appoint, and the darogah thereon shall attest the lists of stones to be delivered to the collector, as well as cause the same to be attested by the officer who actually counted, weighed or measured the stones, by subscribing thereto a certificate, under his signature, of the accuracy of the number, weight, and measurement therein stated.—Reg. II., 1800, sec. vi.

6. The darogahs of the stone quarries, on causing any stones to be measured in pursuance of the preceding paragraph, are to affix some mark thereto, and shall also by some means mark the heaps of stones which may have been counted or weighed, so as to identify the whole of the stones included in the lists attested by them, and are to take such precautions as may be necessary to prevent any change of, or addition to, the stones so collected and examined, previous to the receipt of the collector's rowannah for their removal. If, in any instance, there should appear room for suspicion that the stones counted, weighed, or measured before the application for the rowannah, have been subsequently changed or added to, the darogah is to cause the same to be re-counted, weighed, or measured in his presence; and in the event of its being ascertained that any fraudulent change or addition, for the purpose of evading the duty, has been made, the whole quantity of stones, for the removal of any part of which such fraud may have been attempted, will be liable to confiscation, under the provisions contained in paragraph 10.—Reg. II., 1800, sec. vii.

7. On the removal of the stones specified in the rowannah, the darogah is to endorse thereupon the date or dates of removal, with a certificate, under his signature, that the dispatch has been made agreeably to the contents; and the rowannahs so endorsed are to be returned at the end of each month to the collector with a report of the quantity of stones removed from each quarry within the month. The darogah, with every despatch of stones, is also to furnish the person by whom they may be taken from the quarry with a chore chittee or pass, under his official seal and signature, specifying the number and descriptions of stones taken away, and directing all officers of the quarry, and others, to allow the same to pass without molestation. No new duty, however, is to be levied upon such chore chittees (of which a regular record is to be kept by the darogahs, in such form as may be prescribed to them by the collector); nor are the quarried stones herein referred to, which are exempted from the customs, to be liable, in any part of the Company's provinces, to any other duty than that specified in paragraph 2.—Reg. II., 1800, sec. viii.

8. Any exactions, beyond the prescribed duty, by the officers stationed at the quarry, or by any other person, as well as all charges of corruption against any public officer or other person, directly or indirectly entrusted with the execution of any part of this Regulation, are hereby declared cognizable in the city or zillah Dewanny Adawlut, within the jurisdiction of which such exaction or corruption may have taken place; and the penalties for extortion and corruption proved against the ministerial officers of the Courts of justice and others, as well as the provisions for trying such charges, contained in Regulation XIII., 1793 (extended to Benares by Regulation XII., 1795), are hereby declared applicable to all similar charges which may be preferred and established, under the present Regulation, against the persons herein referred to.—Reg. II., 1800, sec. ix.

9. The collector of Benares is to nominate, for the approbation of the Board of Revenue, the darogahs to be stationed at the several stone quarries, and besides an oath, or solemn declaration,

for the faithful execution of their respective duties, is to take from them the security prescribed in Section XV., Regulation III., 1794, the provisions in Sections XV., XVI., XVII., XVIII., XIX., XX., and XXI. ("CIVIL AND CRIMINAL JUDICATURE," paragraphs 162 to 168), of which Regulation are hereby declared to extend to all descriptions of native officers who may be employed under the present Regulation, and be entrusted with the receipt of money or the charge of accounts. The collector is to fix the allowances of the darogahs, and the necessary establishment of officers to act under them, subject to the confirmation of the Governor-General in Council, to be obtained through the Board of Revenue; he is also to furnish the darogahs with such rules and orders as, from experience, may appear most effectual to prevent the removal of any stones from the quarries without payment of the prescribed duty.—Reg. II., 1800, sec. x.

10. Any stones which may be clandestinely or otherwise removed from the place of excavation, or place adjoining thereto where it may be usual to collect the stones when quarried, without paying the duty and obtaining the rowannah required by this Regulation, shall be liable to immediate seizure and confiscation to Government, together with the cattle and carriages which may be used for the conveyance of such stones, and all other property seized therewith, which may in anywise have been used, or intended for use, in the illicit removal of the stones in question. As an encouragement to the officers of Government to do their duty in making such seizures, and to all other persons to give information by which the same may be made, the following rewards shall be paid by the collector from the sale-produce of the stones and other property confiscated, as soon as the same shall have been disposed of by public sale, in pursuance of the succeeding paragraph, viz.:—If the seizure be made by the public officers stationed at the quarries without information from any other person, a moiety of the sale-produce shall be given to them, and be divided amongst them in such proportions as the collector, on inquiry, may judge due to them respectively; or if the seizure be made by the public officers upon information from any other person or persons, a quarter of the sale-produce shall be given to the seizers, and another quarter to the informers, to be distributed by the collector as above directed. If any other person or persons than the officers stationed at the quarry shall both give the information and make the seizure, he or they shall be entitled to a full moiety of the sale-produce, without the participation of the officers of Government, who, on the contrary, shall be liable to dismission from office for their neglect, if the collector, on inquiry, shall find them deserving of it; and if there be sufficient evidence of any collusion on their part, they shall be prosecuted criminally for a breach of trust. But to prevent undue molestation to the stone-cutters, or persons who may purchase stones from them at the quarries, it is hereby required and directed, that no obstruction be offered to the free passage of any stones, on suspicion of their not having paid the established duty, beyond certain limits round the quarries, to be fixed by the collector, and within which it will be the duty of his officers to keep vigilant watch for the purpose of detecting and preventing any attempts to remove the stones without a regular pass from the darogah. Moreover, any seizure of stones, without sufficient grounds to warrant suspicion of an attempt to remove the same clandestinely, or to evade the duty, will subject the seizers (unless reparation be made as directed in the following paragraph) to a prosecution in the Civil Courts for damages; and such Courts, on clear proof that the seizure was altogether unwarranted, and that due reparation has been refused, are required to adjudge full damages to the party injured, besides all costs of suit.—Reg. II., 1800, sec. xi.

11. Whenever any seizure may be made under the preceding paragraph, an immediate report thereof shall be transmitted by the darogah of the quarry to the collector of Benares, with a circumstantial statement of all particulars relative thereto; and the collector shall, as soon as possible, make such further inquiry as may be necessary, in the presence of the parties concerned, if in attendance, or their authorized agents; after which, if it shall appear that the duty had been paid upon the stones seized, or that it was not intended to remove them from the quarry without payment of the prescribed duty, he shall cause them to be immediately released, and direct the party who seized them to make such reparation to the owner as may be adequate to the actual injury sustained by him, under penalty, for non-compliance, of being prosecuted in the Dewanny Adawlut for damages and costs, under the preceding paragraph. If, on the contrary, it shall clearly appear to the collector that no duty has been paid on the stones seized, and that an attempt was made to remove them from the quarry without payment of the duty, he shall declare the same confiscated to Government, together with any cattle, carriages, or other property seized therewith, and liable to confiscation under the preceding paragraph; and shall immediately advertise the same to be publicly sold at his cutcherry, on a day to be fixed for this purpose, and to be at least fourteen days after the date on which he may pass the order of confiscation. All persons whose property may be so confiscated and advertised, shall be at liberty, at any time within ten days after the date of the collector's order of confiscation, to appeal therefrom by a regular suit in the Dewanny Adawlut or the city of Benares; and the collector, if duly advised of such suit having been instituted, shall defend the same through the vakeel of Government, and postpone the sale till the determination of it, as well as conform to the judgment which may be passed thereupon, subject to the general rules for appeals. But all such suits shall be brought to a determination with the least possible delay; and if no notice of any suit having been instituted

shall be served upon the collector before the appointed time of sale, he shall make the sale as advertised, and no subsequent claim or plea against the confiscation of the property sold shall be received in any Court of Justice. The judge of the city of Benares will of course take care that timely notice is given to the collector of all suits instituted under this paragraph within the ten days prescribed; and he is not to admit any appeal from the collector's order of confiscation which may not be preferred within the period limited, unless satisfactory reason be assigned for the delay; nor in any case when the appeal may not be preferred in time to give notice of it to the collector before the appointed day of sale.—Reg. II., 1800, sec. xii.

12. The collector is to report to the Board of Revenue all confiscations and sales which may take place under the preceding paragraph, as well as to furnish them with all other information, reports, and accounts which may be required from him respecting the stone quarries and duties referred to in this Regulation, or any matter relating thereto.—Reg. II., 1800, sec. xiii.

13. The Governor-General in Council reserves to himself the power of increasing or reducing the rates of duty established by this Regulation if he should hereafter judge it proper, as well as to pass any further rules respecting the stone quarries in the province of Benares which may appear expedient.—Reg. II., 1800, sec. xiv.

14. The hill people are not to be required to pay any duty for the stones of any kind which they may want for their own use, and the farmer of the stone mehal is not to interfere with them. But the collector, in his instructions to the darogahs, is to provide against the abuse of this exemption, in such manner as may be most effectual; and if, notwithstanding, any attempts should be made to extend the exemption beyond the intended privilege to the hill people, the stones, to pass which such attempt may be made, will be liable to seizure and confiscation under paragraph 10.—Reg. XXII., 1795, sec. lxxxii., cl. 4; Reg. II., 1800, sec. xv.

# PREFATORY NOTE

TO THE SECTION

## "CUSTOMS, COMMERCE, AND SHIPPING."

THE present Section comprehends all rules regulating the levy of custom duties, and defining the powers and duties of the officers engaged in the Customs department. Also all provisions relating to Commerce and Shipping, and the regulation of Ports and Warehouses.

The old Customs code of 1810 has been placed at the beginning. Many of the provisions of this code have been abolished or superseded by later principles and laws of trade, and all such provisions as clearly appear to have been abrogated have been omitted, but many others which are doubtless obsolete and inoperative have been retained in consequence of their not being repealed by any Regulation or Act. In this complex and extensive portion of legislative enactment, where practice has probably construed and regulated much of which the law has not promulgated specific modifications, it was most safe to retain parts, though it be probable that they may no longer be operative, with the view that in future dealing with such rules, all doubt may be removed respecting them, by repeal, or the substitution of modified provisions.

The rules of the Code of 1810, relating to Customs Officers, still remain in force; those enacted for the levying of import, export, and transit duties, are now applicable only to frontier duties in the Lower Provinces under the provisions of section i, Act XIV, 1836, and section i, Act XIV, 1843; and the rules for the regulation of the port of Calcutta remain in force under section v, Act XIV, 1836, except in so far as they are affected by the new rules relating to Customs in Acts XIV, 1836 and XVI, 1837, which come next in order.

The rules relating to drawbacks are arranged together, and next follow those regulating the trade of Foreign Nations, and declaring the privileges of Foreign vessels, under which the distinction between British and Foreign bottoms has been abolished.

A few rules restricting the export and transit of Military Stores come next in order.

The Custom duties in the North Western Provinces are comprised in the rules of Act XIV, 1843, which follow in succession; these provisions are short, as they leave the details of the management of the Customs to be regulated by the orders of the Government.

The rules which follow, restricting the importation of Rum, and for the management of Bonded Warehouses, require no observation, as they have been subjected to but little change.

The rules enacted for Dhonies, or native craft in the river Hooghly, by Reg. I, 1801; come next in order. They have never been modified; but a few other rules relating to such vessels are found in the Customs Regulations, and reference is accordingly made to them.

The provisions for the Registry of Ships, and the rules for the Registry and Protection of Merchant Seamen, need no comment.

The last subject in this Section relates to the freedom of trade with Sylhet, and the precautions to be taken to prevent the export of arms and military stores to the Cosseas and other mountaineers on that frontier.

GOVERNMENT OF BENGAL

# CUSTOMS, COMMERCE, AND SHIPPING.

## TABLE OF ENACTMENTS.

| Original Regulation. | Paras. in Consolidation. | REMARKS. |
|---|---|---|
| 1799. I. | | |
| ii. | 316 | |
| iii., 1 | | Rescinded by sec. ii, Reg. II, 1828 |
| 2 and 3 | 317, 318 | |
| iv. | 319 | Part omitted under Reg. II, 1828 |
| v. | 320 | |
| vi. | 321 | Part relating to the Provincial Court omitted |
| vii. | | Superseded by Act XI, 1836 |
| viii. | 322 | |
| 1801. VII. | | |
| ii. to vii. | 221 to 227 | |
| 1807. XI. | | |
| ii. | | Superseded |
| iii. | 164 | |
| 1810. IX. | | |
| i., to iv. | | Recissions; unnecessary |
| v. | 1 | Sec. ii. Reg. I, 1812, and sec. ii, Reg. XII, 1816, added |
| vi., 1. | 2 | Part omitted under Act XIV, 1843 |
| 2 | | Omitted under Act XIV, 1843 |
| vii. to ix. | 3 to 5 | |
| xi. | 10, 11 | Part omitted under Act XIV, 1843 |
| xii., 1 | 12 | The various recissions and modifications in Regs. I. and XIX, 1812, IV, 1815, V, 1820, XV, 1825, and Act XIV, 1836, noted |
| 2 | | Superseded by sec. i. Act XIV, 1836 |
| 3 | 13 | |
| xiii. | | Rescinded by sec. i, Act XIV, 1836 |
| xiv. | 14 | Addition from sec. xvii, Reg. I, 1812 |
| xv., 1 to 5 | 15 to 19 | Sec. iii. Reg. VI, 1814, introduced in paragraph 16 |
| 6 | | Superseded by Acts XVII, 1835, and XIII, 1836 |
| 7 | 20 | |
| xvi. | 21 | |
| xvii. | | Rescinded by sec. ii, Reg. V, 1823 |
| xviii. | | Clause 1 rescinds only, and the remainder is rescinded by sec. i, Act XIV, 1843 |
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| ii. | | Recissions; unnecessary |
| iii., 1 | 12 | Incorporated with cl. 1, sec. xii, Reg. IX, 1810 |
| 2 | | Superseded |
| iv. | | Unnecessary |
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# CUSTOMS, COMMERCE, AND SHIPPING.

## CUSTOMS.

Under the provisions of section 1, Act XIV, 1836, all rules for the levy of transit or inland custom duties, or of town duties, were repealed, but duties at the rates then in force were to continue to be levied on frontier lines upon imports and exports. The rules of Reg. IX, 1810, would therefore appear to be applicable only to such frontier duties,—and, as provision is made for duties on imports and exports in the North Western Provinces by Act XIV, 1843,—they can only apply to the Lower Provinces and districts not included within the operation of that Act.—See *post*, paragraph 177.

### CUSTOMS OFFICERS.

NOTE.—The general control of the Customs in the Lower Provinces is vested in the Sudder Board of Revenue, under Act XLIV, 1850; and in the North Western Provinces, in the Sudder Board of Revenue for those provinces, under Act I, 1833.—See "REVENUE OFFICERS."

1. The custom-houses for the collection of the Government customs, shall be fixed in the cities of Patna, Moorshedabad, Dacca, and Calcutta, and in the towns of Chittagong, Hooghly, and Balasore, and at Coæ's-bazar, or at such other station in the southern division of Chittagong as may be deemed expedient; and whenever local circumstances may render it expedient that the custom-houses should be fixed without the limits of the cities or towns in question, it is hereby declared, that a custom-house may be fixed by order of the Governor-General in Council at any place near the cities or towns referred to, not exceeding one coss, or two miles, from their respective boundaries.—Reg. IX, 1810, sec. v; Reg. XIX, 1812, sec. ii: Reg. XII, 1816, sec. ii.

2. The Government customs to be levied at the several custom-houses, shall be levied by officers to be severally denominated collectors of the Government customs.

3. The collectors of the Government customs, and their respective deputies, shall be subject in the province of Benares and within the ceded and conquered provinces (with the exception of Cuttack) to the authority of the Sudder Board of Revenue for the North-Western Provinces, and within the provinces of Bengal, Behar, and Orissa, including Cuttack, to the authority of the Board of Revenue at the Presidency.—Reg. IX, 1810, sec. vii: Reg. I, 1833, sec. iii; Act XLIV, 1850.

4. The collectors of the Government customs shall use a square seal, two inches in diameter, bearing an inscription to the following effect, in the Persian character and language: "The seal of the collector of the customs at ————." The seal of each custom-house shall remain in the custody of the collector of the Government customs; and in that of the deputy collector, at the stations which may be under the superintendence of an officer of that description.—Reg. IX, 1810, sec. viii.

5. Previously to entering upon the execution of the duties of their respective offices, the collectors of the Government customs, and their respective deputies, shall severally take and subscribe the following oath before the Governor-General in Council, or any person whom he may empower to administer the same: "I, A. B., do solemnly swear, that I will faithfully discharge the duty of the collector (or deputy collector) of the Government customs at ————; that I will not, directly or indirectly, by myself or others, be concerned in, or allow of any collections being made, but such as are, or may be hereafter, authorized by and brought to the credit of Government; that I will not be concerned, directly or indirectly, in the purchase of any goods or commodities in the British dominions subject to the immediate authority of the presidency of Fort William in Bengal, for the purpose of remitting money to Europe, or in any commercial transactions; that I will not take or receive, or knowingly allow any person to take or receive, any present, gratuity, fee, or advantage whatever, on account of any matter relating to the duty of my office, excepting such as now is or may be hereafter authorized by the Governor-General in Council, So help me God."—Reg. IX, 1810, sec. ix.

6. It shall and may be competent to the Governor-General in Council, by an Order in Council, to appoint such and as many officers, being covenanted servants of the Honourable Company, as he may from time to time deem proper, to collect the duties of Government customs

and duties, or such items thereof as the said Governor-General in Council may deem proper; and the officers so appointed shall possess and exercise in regard to the duties, the collection of which may be entrusted to them, and to all persons and things chargeable with or liable to the said duties, as well as in respect to all forfeitures, defaults, suits, investigations and processes relating to such duties, or the collection thereof, or to the subordinate officers employed in the collection or custody of the said duties, or the articles chargeable therewith, all such powers and authorities as may or shall be legally exercised by the collectors, or deputy collectors, under the Regulations which are now in force, or which may be hereafter enacted, subject to the same rules and provisions as may or shall apply to the collectors and deputy collectors aforesaid.—Reg. II, 1822, sec. ii, cl. 2.

7. It shall likewise be competent to the Governor-General in Council, by an order in council, to vest any officer or officers, being covenanted servants of the Company, whether employed in collecting the customs and duties or not, with such part of the powers and authority usually possessed and exercised by collectors of customs and duties, as he may from time to time judge to be proper.—Reg. II, 1822, sec. ii, cl. 3.

8. It shall also be competent to the Governor-General in Council to pass such orders as may from time to time appear proper, in regard to the disposal of that part of the proceeds of goods confiscated, or of the fines or penalties incurred by a breach of the customs regulations, which under the provisions of the existing Regulations is assigned to the collector of customs, or other covenanted servants of the East-India Company.—Reg. II, 1822, sec. ii, cl. 4.

See further rules, commencing with paragraph 47.

9. The several custom-houses shall be open for the transaction of business every day (Sundays, and holidays agreeably to a list to be furnished to the collectors by the Board of Revenue, excepted) from ten o'clock in the morning until four o'clock in the afternoon.—Reg. IX, 1810, sec. x.

### FRONTIER DUTIES.

10. The collectors of the Government customs shall establish custom-house chokies at such places as may be deemed necessary on the principal routes or ghauts leading to or from their respective custom-houses. Provided, however, that no chokies shall be established at any greater distance than two coss, or four miles, from any such custom-houses; or which may be requisite under the collector of customs at Hooghly, with the view to embrace the trade of the foreign settlements, or under the collector of customs at Dacca, for the purpose of comprehending the navigation of the river Megna, or under the collector of customs at Balasore at the dependent port of Churamun, or under any other collector of customs, for any special reason or purpose which shall be reported to the Board of Revenue, and without whose respective sanction, previously obtained, no chokies whatever shall, on any account, be established at a greater distance than two coss, or four miles, from the custom-house.—Reg. IX, 1810, sec. xi, cl. 1.

11. No duty or collections whatever shall be levied at any chokey. The authority of the officers of the chokies shall be confined to the detention of goods liable to duty passing within the limits of their chokey unaccompanied by proper rowannahs, or of goods which may not correspond with the rowannahs, until such time as the orders of the collector of customs can be obtained respecting them, and for which purpose immediate notice is to be given to the collector. All duties shall be paid at the stations of the collectors of the customs or their deputies, by whom alone rowannahs are to be granted.—Reg. IX, 1810, sec. xi, cl. 2.

12. Duties, under the denomination of Government customs, shall be levied at the following rates on the goods specified:—

| *Enumeration of Goods.* | *Rates of Duty.* |
|---|---|
| Cotton wool .. .. .. .. .. .. | In its cleaned state, twelve annas per maund of ninety-six tola weight.<br>In its uncleaned state, or in the pod, four annas per maund of ninety-six tola weight<br>The produce of the semul tree (bombax) is not subject to any duty.<br>But the amount of duty levied shall never exceed five per cent. on the value, and the fixed rates will be reduced to that amount whenever they may exceed it.—Reg. I, 1812, sec. iii; Reg. IV, 1815, sec. xii. |
| Cotton piece goods .. .. .. .. .. | On importation from the Vizier's and the Nepaul territories, two and a half per cent.<br>On importation from other foreign territories, seven and a half per cent. |

| *Enumeration of Goods.* | *Rates of Duty.* |
|---|---|
| Cotton yarn.. .. .. .. .. .. | On importation or exportation, seven and a half per cent. ad valorem. |
| Raw silk filature .. .. .. .. .. | Ditto, seven and a half per cent. on a valuation of seven rupees per seer of eighty tola weight. |
| Bengal wound silk .. .. .. .. .. | Ditto, seven and a half per cent. on a valuation of six rupees per seer of eighty tola weight. |
| All other sorts of raw silk .. .. .. .. | Ditto, seven and a half per cent. ad valorem.—Reg. I, 1812, sec. v. |
| Silk piece goods, and goods made partly of silk and partly of cotton | On importation from the Vizier's and the Nepaul territories, two and a half per cent.<br>Ditto, from other foreign territories, seven and a half per cent. ad valorem. |
| Embroidered goods and brocades .. .. .. | On importation from the Vizier's and the Nepaul territories, two and a half per cent.<br>Ditto, from foreign territories, seven and a half per cent. |
| Gold and silver tissues, lace and thread .. .. | On importation or exportation, five per cent. ad valorem. |
| Shawls .. .. .. .. .. .. | On importation, ten per cent. ad valorem, to be levied at the first custom-house, after which the goods shall be subject to no further duty in the Company's provinces. |
| Woollens (country), viz. looys and blankets .. | If imported from Nepaul, two and a half per cent.<br>The manufacture of the Company's territories, five per cent. ad valorem. |
| Carpets and setrenjees .. .. .. .. | Seven and a half per cent. |
| Gunnies, gunny-bags, putties, and chutta.. .. | Five per cent. ad valorem. |
| Thread, tape, and fringes .. .. .. .. | Liable to the same duties with cotton piece goods. |
| Indigo .. .. .. .. .. .. | On importation, five per cent. on a fixed valuation of one hundred rupees per factory maund. |
| Sugar, jagry, goor, and syrup .. .. .. | Five per cent. ad valorem. |
| Beetle-nut .. .. .. .. .. .. | Of the growth of Bengal, or imported by land, seven and a half per cent. ad valorem. |
| Kuth or kutch .. .. .. .. .. | Five per cent. ad valorem. |
| Oil and oil-seeds, mustard and sesamum, and all other vegetable or animal oils | Seven and a half per cent. ad valorem. |
| Cocoa-nuts, either with or without the bark .. | Five per cent. ad valorem. |
| Wax and wax candles .. .. .. .. | Ten per cent ad valorem. |
| Long pepper and its root (called piplamoor) .. | Seven and a half per cent. ad valorem. |
| Dry ginger .. .. .. .. .. .. | Seven and a half per cent. ad valorem. |
| Aromatic seeds, viz. anise (or moury or sonf), calizeerah (or nigella), cardamums, coriander (or dhunia), cummin (or jeerah), jowaen (or ajwain) | Seven and a half per cent. ad valorem. |
| Spices, viz. pimento (or allspice), cloves, mace, nutmegs, cassia and malabathrum leaf (or tezpaut) | On importation from Nepaul, two and a half per cent. |
| Pepper, black and white .. .. .. .. | Ten per cent. ad valorem. |
| Saltpetre .. .. .. .. .. .. | Seven and a half per cent. ad valorem. |
| Gums and drugs, viz. camphire, cherayta, columbo root, copal (or kahroba), galbanum, gum arabic, jutta munsee (or spikenard), mastic, myrobalans, viz hurrah, buhera, ownla, myrrh, soonamoky leaf, senna, and storax | On the produce of the country, seven and a half per cent |
| Assafœtida .. .. .. .. .. .. | Ten per cent. ad valorem. |
| Saffron .. .. .. .. .. .. | Ten per cent. ad valorem. |
| Stick lac, labi joory lac, shell lac, cake lac, and seed lac | Five per cent ad valorem. |
| Perfumes and fragrant drugs, viz. ottar or essential oils, fooleyl teyl or perfumed oils, ambergris, civet, musk, luban or benjamin, gundiberoza or frankincense, putcha pat, rose-water, and keorah-water | Seven and a half per cent. ad valorem. If imported from the territories of Nepaul, two and a half per cent. |
| Dying drugs, viz. attah, awl-root or morinda, crimdana or cochineal, coosum flower, dhye flower, hursinghar flower, loadh, munjeeth or madder, toond flower | Seven and a half per cent. ad valorem, the produce of the country. |
| Wood used in dying, viz. buckum or sappan-wood and sandal ahmer or red sandal-wood | Seven and a half per cent. the produce of the country |
| Fragrant wood, viz. white or yellow sandal wood, ugger or aloe-wood, and tuggur | Seven and a half per cent. the produce of the country |
| Wood used in cabinet-work, viz. chucrassy, toon, and sitool | Seven and a half per cent. ad valorem. |
| Timber, viz. saul, seesoo, jarrel (whether red or white), and soondry | Ten per cent. ad valorem. |

| *Enumeration of Goods* | *Rates of Duty.* |
|---|---|
| Chunam .. .. .. .. .. .. | Ten per cent. ad valorem, to be levied at Calcutta and Dacca only. |
| Resins, viz. dammer, whether foreign or the produce of the country | Five per cent. |
| Pigments, viz. yellow ochre or goopy muttee, vermilion, ranga muttee or Indian red, minium, Prussian blue, peoree, and verdigrease | Ten per cent. ad valorem. |
| Quicksilver .. .. .. .. .. .. | Ten per cent. on importation, ad valorem. |
| Tin and tutenague .. .. .. .. .. | Ten per cent. on importation, ad valorem.—Reg. I, 1812, sec. vi. |
| Copper and brass .. .. .. .. .. | Ten per cent. ad valorem on inland importation, but to be levied on the unwrought metal only.<br>If imported from Nepaul, two and a half per cent. ad valorem. whether wrought or unwrought.—Reg I, 1812, secs. vii and viii. |
| Lead (pigs), milled and sheet lead, and small shot. | Ten per cent. ad valorem on importation. |
| Iron and steel, manufactured iron and steel .. | Ten per cent. on the market value on importation by land at the nearest custom-houses to the frontier.<br>On importation from Nepaul, two and a half per cent. |
| Arms, viz. swords, matchlocks, shields .. .. | Two rupees per matchlock, one rupee for a sword, and four annas for a shield, on importation. |
| Arsenic (white), red arsenic or realgar, yellow arsenic or orpiment (hurtaul) | Ten per cent. ad valorem. |
| Sulphur or brimstone .. .. .. .. | Ten per cent. ad valorem. |
| Alum .. .. .. .. .. .. | Ten per cent. ad valorem. |
| Borax and tincal .. .. .. .. .. | Five per cent. ad valorem.<br>If imported from Nepaul, two and a half per cent. |
| Vitriol or tooteah .. .. .. .. .. | Five per cent. ad valorem. |
| Sal-ammoniac .. .. .. .. .. | Five per cent. ad valorem. |
| Alkali, soojee muttee or natron .. .. .. | Five per cent. ad valorem. |
| Soap.. .. .. .. .. .. .. | Five per cent. ad valorem. |
| Raw hides and leather .. .. .. .. | Five per cent. ad valorem. |
| Boots, shoes, and slippers .. .. .. .. | Five per cent. ad valorem. |
| Furs.. .. .. .. .. .. .. | Five per cent. ad valorem on importation.<br>If from Nepaul, two and a half per cent. |
| Hookas, vidre ware, and hooka snakes .. .. | Seven and a half per cent. ad valorem. |
| Stone plates.. .. .. .. .. .. | Five per cent. ad valorem. |
| Chanks or saunks .. .. .. .. .. | Seven and a half per cent. ad valorem. |
| Cowries .. .. .. .. .. .. | Five per cent. ad valorem, on importation at Calcutta, Chittagong, or Balasore only. |
| Coral .. .. .. .. .. .. | Ten per cent. ad valorem. |
| Elephants' teeth, Ivory .. .. .. .. | Seven and a half per cent. ad valorem. |
| Cow-tails and chowries .. .. .. .. | Five per cent. on importation.<br>If from Nepaul, two and a half per cent. |
| Bengal paper .. .. .. .. .. | Five per cent. ad valorem. |
| Pipe-staves.. .. .. .. .. .. | Seven and a half per cent. |
| Gin, brandy, rum, and arrack .. . .. | Thirty per cent. on importation from foreign territories in Asia. |
| Tea .. .. .. . .. .. .. | Ten per cent. |
| Tobacco .. .. .. .. .. .. | On importation or exportation by land, a custom duty of four annas per maund of 40 seer weighing eighty tola weight.—Reg. IX, 1810, sec. xii, cl. 1; Reg V, 1820, sec. ii. |

And all duties leviable on any given quantity by weight, measure, or value, shall also be leviable according to the same rate on any greater or less quantity.—Reg. IX, 1810, sec. xii, cl. 1; Reg. I, 1812; Reg. XIX, 1812; Reg. IV, 1815; Reg. XV, 1825; Act XIV, 1836; and Act V, 1849.

13. Goods specified in the above enumeration which shall have paid the prescribed duties once, on their importation, shall not be liable to any further duties in passing through the provinces subject to the presidency of Fort William, unless such goods, or any of them, be expressly made liable to any further duty by some future Regulation; nor shall the said goods be subject to any duty whatever on being exported from the said provinces, save and except the export duties to which any of the articles so enumerated may be liable, on being exported therefrom by sea.—Reg. IX, 1810, sec. xii, cl. 3.

14. No article whatever shall be liable to duty that is not expressly declared to be so by this or some future Regulation; and any collector or deputy collector of customs, who, in contravention

of this rule, shall levy any duty upon any article not expressly enumerated herein, or in some future Regulation, shall on proof thereof at the suit of the party, be liable to a fine to Government of three times the amount of the duty so collected by him, in addition to such damages and costs as may be further awarded against him by the court. It is, moreover, hereby declared, that the articles enumerated in the foregoing paragraph are to be subjected to the duties specified therein as merchandise only. No articles belonging to private individuals shall be exempt from the payment of the established duties, excepting second-hand articles, or articles which may be actually in the possession and use of the owners, and such articles shall be passed or otherwise at the discretion of the collector.—Reg. IX, 1810, sec. xiv; Reg. I, 1812, sec. xvii.

15. In cases in which the duties established by this Regulation are directed to be levied on the value of the goods, such value shall be specified in books which shall be open for public inspection at the several custom houses: the collectors of the Government customs are accordingly required to prepare and submit, with all practicable expedition, to the Board of Revenue, for the approbation of the Governor-General in Council, a book of rates specifying the value of the several articles chargeable with duty ad valorem under the present Regulation.—Reg. IX, 1810, sec. xv, cl. 1.

16. The book of rates shall be published for general information in the cutcherries of the magistrates and of the collectors of the land revenue, as well as at the different custom-houses throughout the provinces. The book shall moreover, be revised and republished, under the above rules, annually and as soon after the expiration of each year as possible.—Reg. IX, 1810, sec. xv, cl. 2; Reg. VI, 1814, sec. iii.

17. The valuation of goods by the book of rates at the custom-house from which the rowannah for them may have been taken out, shall bind all other custom-houses to abide by the same rate of valuation, wherever the goods may go.—Reg. IX, 1810, sec. xv, cl. 3.

18. If any article liable to pay duty ad valorem should be omitted in the book of rates (which it is expected, however, can very rarely happen), the value shall be taken to be the prime cost proved by the invoice, or otherwise to the satisfaction of the collector, with an advance of twenty per cent. thereon.—Reg. IX, 1810, sec. xv, cl. 4.

19. In cases where goods shall have been damaged, and shall not be in what may be considered a merchantable state, they shall be rated at their actual value, instead of being subjected to the payment of duties on the valuation specified in this Regulation or in the book of rates.—Reg. IX, 1810, sec. xv, cl. 5.

20. In all cases in which the duties are directed to be levied upon the maund, without specifying any particular weight or kind thereof, the maund shall be taken to be of eighty Calcutta tola weight to the seer, throughout all the provinces subject to this presidency.—Reg. IX, 1810, sec. xv, cl 7.

21. Goods and articles of trade exported from the province of Rohilcund into the territory constituting the jaghire of Rampore, shall not be subject to the payment of any duty on being exported from such province into the territory aforesaid. All goods and articles of trade imported into the province of Rohilcund from the Rampore jaghire, being of the description of goods and articles of trade which are liable to the payment of Government customs under this Regulation, shall be subject to the payment of the same import duties to which the same goods and articles of trade are subject on importation from the dominions of the Nawaub Vizier.—Reg. IX, 1810, sec. xvi.

22. Rowannahs, or custom-house passes, shall be granted under the following rules:—Reg. IX, 1810, sec. xix, cl. 1.

23. No rowannahs shall be granted excepting upon a written durkhaust or application signed by the proprietors of the goods, or their authorized agents, or the persons in charge of the goods. The durkhaust shall specify the following particulars: The merchant's name, the sort of goods, the quantity of goods, the number and description of packages, the value of the goods, whence brought or imported.—Reg. IX, 1810, sec. xix, cl. 2.

24. Should any attempt be made to pass at any custom-house a larger quantity of goods than that which is specified in the durkhaust, or to pass goods of greater value than those specified in the durkhaust, in the former case the whole of the goods shall be liable to confiscation, and in the latter case the goods shall be subject to double duty.—Reg. IX, 1810, sec. xix, cl. 3.

25. Rowannahs, for which application may be made on any day before twelve o'clock, shall be prepared and delivered at a period not later than the following day.—Reg. IX, 1810, sec. xix, cl. 4.

26. Every rowannah shall be signed and sealed by the collector or deputy collector, the darogah, and the tavildar or cash keeper; the latter of whom shall deliver the rowannah upon the duties being paid.—Reg. IX, 1810, sec. xix, cl. 5.

27. The darogah and the tavildar shall each have the custody of the seal of his office. Should either of the said officers be convicted of allowing his seal to be removed from his possession, he shall be subject to dismission from his office, under the rules provided in such cases by Regulation V,

1804, and Regulation VIII, 1809. (PUBLIC OFFICERS, UNDER "CIVIL AND CRIMINAL JUDICATURE.")—Reg, IX, 1810, sec. xix, cl. 6.

28. The rowannahs shall be written in the Persian and Bengal languages and characters, in the provinces of Bengal, Behar, and Orissa (including Cuttack), and shall contain the following particulars: The number of the rowannah, the date of the rowannah, the merchant's name, the sorts of goods, the quantity of the goods, the number and description of packages, the value of the goods, the rate of the customs, the amount of the customs, and the places from whence the goods have been brought or imported, and to which they are proceeding.—Reg. IX, 1810, sec. xix, cl. 7.

29. Registers of all rowannahs granted at each custom-house shall be kept in the English and Persian languages, according to such form as the Board of Revenue shall prescribe.—Reg IX, 1810, sec. xxi.

30. All rowannahs granted under this regulation (excepting the maafee rowannahs specified in paragraph 36) shall be considered to be in force for one year only, calculating from the date on which they shall be respectively granted. After such period, the goods covered by the said rowannah, in the event of their being brought or moved within the limits of the chokies of any of the custom-houses established by this Regulation, shall be again subject to the established duties, in the same manner as if the duties on such goods had never been paid. Rowannahs shall be delivered up and cancelled whenever an opportunity offers for requiring it, as in the case of exportation by sea, or in the cases specified in paragraphs 33 and 34.—Reg. IX, 1810, sec. xxii.

31. A rowannah granted at any one custom-house shall be current, under the rules contained in this Regulation, throughout the provinces subject to the presidency of Fort William, and shall exempt the goods covered by it, in their passage to any place within the said provinces as well as on exportation from those provinces (unless the goods be expressly made liable to a further export duty), from the payment of any further duty under this Regulation, and from any detention for a period longer than may be requisite to enable the officers of any other custom-house to ascertain whether the goods and the rowannah correspond. The detention of the goods for this purpose shall never exceed one day. The collector, after having made the necessary examination, shall, if the goods correspond with the rowannah, certify the same upon the back of the rowannah. If the collector shall find (in the case of private goods) that the merchant has taken up more goods, or any other goods, in addition to those specified in the rowannah, the whole of the goods shall be liable to confiscation. If the collector shall have reason to believe that goods superior in value to those specified in the rowannah are attempted to be passed under such rowannah, he shall cause a part of the goods to be opened and examined in the public cutcherry in his own presence; and if any such fraud shall be discovered, the collector shall levy double duties on the real value of the goods composing the whole despatch.—Reg. IX, 1810, sec. xxiii, cl. 1.

32. The collector at each custom-house shall keep a register of all rowannahs granted at other custom-houses which shall accompany goods passing his station, in the same form as the register prescribed to be kept of rowannahs granted by himself.—Reg. IX, 1810, sec. xxiv.

33. Should a merchant be desirous of dividing a cargo or despatch of goods into two or more portions after having taken out one rowannah for the whole, he shall be entitled at any of the custom-houses to as many rowannahs as he may require, on identifying the goods and surrendering the original rowannah, after paying a further duty of one-half per cent. thereupon, and a fee of four annas for every rowannah so obtained in exchange for the original rowannah, for the use of the collector or deputy-collector of customs, according to such orders as may be passed on that point by the Governor-General in Council.—Reg. IX, 1810, sec. xxv; Reg. XIX, 1812, sec. v.

34. It is declared that a rowannah shall be considered to be in force for one year only. Should a merchant, however, be desirous of removing his goods from the place to which they may have been carried under the original rowannah, after the expiration of one year, he shall be entitled to an exchange rowannah for another year at any of the established custom-houses, the goods being identified to the satisfaction of the collector, upon paying a duty one-half per cent. thereon, provided that the old rowannah be produced for renewal, and be delivered up before the expiration of the period for which it was issued, that the necessary inquiry may be immediately made and evidence taken to identify the goods; and it is hereby declared that the production of the old rowannah subsequently to the expiration of its term, will not entitle the holder of it to a fresh rowannah in exchange for it.—Reg. IX, 1810, sec. xxvi.

35. The rule contained in the preceding paragraph is to be considered applicable to goods imported from foreign territories inland, and which are respectively alleged to have already paid duty. All such goods must be identified, not only by the production of the original rowannah, but by other satisfactory evidence, before the holder of it will be entitled to a renewal of it.—Reg. IX, 1810, sec. xxvii.

36. Articles which are not the produce of the country, but exclusively imported by sea, and

which must, of course, have paid the duties to which they are liable on importation, shall be allowed to pass inland without question; and for that purpose shall be furnished with maafee or free rowannahs by the collectors of customs at Calcutta, Chittagong, and Balasore, on the payment of a duty of one quarter per cent., and a fee at the rate of one rupee per mile on the value of the goods; the presumption that the customs have been duly levied at the time of importation being sufficient to supersede the necessity for any other inquiry. The fee above specified is to be levied for the benefit of the collector; or in the case of his having a deputy, for their joint benefit, in such proportion as the Governor-General in Council or the Vice-President in Council may direct.—Reg. IX, 1810, sec. xxviii.

37. At each custom-house there shall be kept a register of all exchanged rowannahs granted therefrom, specifying the date and number of its original rowannah and the custom-house at which it was issued. A register shall likewise be kept of all maafee rowannahs, specifying the date and number thereof, with the article for which, and the name of the person to whom it may have been granted.—Reg. IX, 1810, sec. xxix.

38. All the duties payable under this Regulation, with the exception of such cases as are or shall be otherwise expressly provided for, shall be paid, and the rowannahs for covering the goods shall be obtained, previously to the goods passing or attempting to pass within the limits of any of the chokies dependent on the custom-houses established by this Regulation. Moreover, as those chokies have now been confined within very narrow limits, with a view to relieve the commerce of the country from vexatious interruption, and it is to be supposed that the owners of goods liable to the payment of the duties can never find any difficulty in covering them by a rowannah previously to their being moved, it is hereby declared, that should any goods be brought within the limits of a choky without being accompanied with a rowannah, or be otherwise found in transit without such a rowannah (although there be no attempt clandestinely to evade the payment of the duties), they shall in any such instance be chargeable with double duties; and if the goods be seized after having clandestinely passed, or in the attempt clandestinely to pass within the limits of any of the said chokies, without having paid the established duties and without being accompanied by a rowannah, they shall be liable to confiscation.—Reg. IX, 1810, sec. xxx, cl. 1.

39. Provided, however, that if any person should dispute, refuse, or omit payment of the required duties, without any attempt clandestinely to evade the payment of them, such part of the goods as may be deemed equal in value to the duties or double duties due on them shall be secured and deposited in the custom-house until such duties shall be paid: And in the event of the duties not being liquidated within the period of three months, the goods shall, at the expiration of that period, be sold at public sale.—Reg. IX, 1810, sec. xxx, cl. 2.

40. After deducting the duties and custom-house charges, the balance of the sales of goods sold under the preceding paragraph shall be paid to the owners of them on their making application for the same.—Reg. IX, 1810, sec. xxx, cl. 3.

41. The collectors of the customs shall report to the Board of Revenue, the goods remaining unredeemed at the expiration of the three months, previously to proceeding to the sale of them.—Reg. IX, 1810, sec. xxx, cl. 4.

42. Whenever goods shall be detained on the ground of their being liable to confiscation, the collector shall, with all practicable expedition, report the case for the determination of the Board to whose authority he may be subject.—Reg. IX. 1810, sec, xxxiii, cl. 1.

43. In the event of goods being confiscated under this Regulation (with the exception of contraband opium, or arms or military stores, to which none of the rules herein contained are to be considered as having any application), they shall be sold by public auction, and the net proceeds shall be divided as follows: one-fifth to the collector or deputy collector: two-fifths, in equal proportions, to the informer and to the officers of Government making the seizure; two-fifths to the Company.—Reg. IX, 1810, sec. xxxiii, cl. 2.

44. The Board of Revenue is hereby empowered, in cases in which there shall appear to them sufficient cause for so doing, to direct the release of any goods which may have become liable to confiscation, or to remit any other penalties which may have been incurred for the breach of any rule contained in this Regulation.—Reg. IX, 1810, sec. xxxiii, cl. 3.

45. The Board is hereby further empowered to order double duty to be levied in lieu of any higher penalty which may be incurred under this Regulation, in cases in which there shall appear to them ground for a mitigation of such penalty.—Reg. IX. 1810, sec. xxxiii, cl. 4.

46. Provided however, that in both of the two preceding cases, if the goods shall have been seized on the information of an informer, and shall be clearly liable to confiscation, the Board shall direct such compensation to be made to the person who gave the information (not exceeding the amount which he would have been entitled to if the confiscation had actually taken place), as they may deem equitable and proper, and the amount of such compensation shall be

levied upon the goods, under the same rules as are prescribed in paragraphs 38 to 40, for levying the duties or double duties referred to therein.—Reg. IX, 1810, sec. xxxiii, cl. 5.

47. In lieu of the commission and fees which the collectors of the customs have heretofore been authorized to levy for their own benefit, those officers shall be entitled to receive a commission on the amount of the duties realized by them and by their respective deputies on the public account, at such rate as the Governor-General in Council or the Vice-President in Council may determine. Provided, however, that if, in any case, the person appointed to or holding the office of collector of the Government customs should likewise hold the office of collector of the land revenue, such person shall only be entitled to draw a moiety of the said commission on the amount of the duties so realized.—Reg. IX, 1810, sec. xxxiv.

48. The deputy collectors of the customs, excepting at Calcutta, shall receive a fixed salary, and shall not be entitled to any commission on their collections; but those officers shall be entitled to receive, in all cases in which a seizure may be made by them, the proportion of one-fifth of the produce of confiscated goods, under paragraph 43.—Reg. IX, 1810, sec. xxxv.

49. With a view to provide against the embezzlement of the public money, or improper detention of papers or accounts, by native officers in this department, the provisions in sections xv, xvi, xvii, xviii, xix, xx, and xxi, of Regulation III, 1794 (PUBLIC OFFICERS, "CIVIL AND CRIMINAL JUDICATURE," extended to Benares by Regulation V, 1800), and in Regulation XXXIII, 1803 (extended to the conquered provinces by Regulation VIII, 1805), are hereby declared to apply to all descriptions of native officers who may be employed under the present Regulation, and who may be intrusted with the receipt of money or the charge of accounts.—Reg. IX, 1810, sec. xxxvi.

50. No collections whatever, either as customs, duties, commission, fees, or under any other denomination, shall be levied by any of the officers employed at the custom-houses or chokies, excepting such collections as are or may be authorized by this Regulation, or by any other Regulation which shall be hereafter enacted in the prescribed manner.—Reg. IX, 1810, sec. xxxvii.

51. Any native officer proved to have been guilty of a breach of the rule contained in the foregoing paragraph will, of course, be liable to be dismissed from his employment, under the rules provided in such cases by Regulations V, 1804, and VIII, 1809 (PUBLIC OFFICERS, "CIVIL AND CRIMINAL JUDICATURE"). Complaints against native officers employed under the collectors of customs for offences of this nature, shall, moreover, be considered cognizable by the magistrates; and any such native officer, on being convicted before a magistrate of having detained or stopped goods in any unauthorized manner, or of having exacted, under any plea or pretence whatever, as present, fee, or other consideration, for the passage of goods or otherwise, in violation of the Regulations of Government, shall be deemed guilty of extortion, and be liable to be sentenced to pay a fine not exceeding two hundred rupees, and to imprisonment not exceeding six months, according to the nature and circumstances of the case and the condition in life of the offender; and if the fine so adjudged be not paid, it shall be commutable to a further period of imprisonment not exceeding six months, as provided with respect to other sentences of the magistrate by section xix of Regulation IX, 1807 (MAGISTRATES, "CRIMINAL JUDICATURE"). The party aggrieved shall, at the same time, be at liberty to prosecute the offender for damages in the Dewanny Adawlut.—Reg. IX, 1810, sec. xxxviii.

52. All native persons, not being officers employed by Government in the collection of the Government customs, or authorized by any Regulation to collect customs or duties, who shall exact customs or duties of any denomination on any pretence whatsoever, whether as principals or agents, shall likewise be deemed guilty of extortion, and on conviction before a magistrate, shall be liable to the penalties of fine and imprisonment, to the same extent, and with the same qualification for commuting the fine to further imprisonment, if it be not paid, as the magistrate is empowered to adjudge against native officers convicted of extortion under the preceding paragraph; and the party aggrieved shall, in like manner, be also at liberty to prosecute the offender for damages in the Dewanny Adawlut; but nothing contained herein shall be construed to authorize the magistrate to inflict corporal punishment in any such case, on any ground whatever.—Reg. IX, 1810, sec. xxxix.

See an explanatory rule, "SAYER," paragraph 24.

53. The collectors of the Government customs are empowered to propose to the Board of Revenue, for the consideration of the Governor-General in Council, such rules as may appear to them calculated to promote the better collection of the customs.—Reg. IX, 1810, sec. xli.

54. All the rules in this Regulation respecting collectors of the Government customs, unless where the contrary is expressed, shall be considered equally applicable to their deputies. But all accounts, official reports, and communications of the deputies, shall be transmitted to the Board through the collectors, their immediate superiors. The deputy collectors of customs are, moreover,

to pay strict obedience to all orders and instructions they may receive from the collectors to whose authority they may respectively be subject, provided they be not contrary to this or any other Regulation in force at the time.—Reg. IX, 1810, sec. xlii.

### CALCUTTA SPECIAL RULES.

55. In addition to the general rules prescribed in this regulation, the following special rules shall be observed in the collection of the duties directed to be levied on imports and exports by sea to and from the port of Calcutta.—Reg. IX, 1810, sec. xliv.

*Imports.*

56. A tide-waiter shall go on board every vessel that may come to anchor in the port of Calcutta, and enter in his book her name, the nation to which she may belong, the name of her commander, from what port she may have sailed last, and every other necessary particular concerning her.—Reg. IX, 1810, sec. xlv, cl. 1.

57. The following notification shall be inserted in the tide-waiter's book:

"Fort William (date).

"To all commanders and supercargoes of vessels trading to the port of Calcutta:

"You are hereby directed, immediately on your arrival at this port, to transmit to the custom-house a true manifest, upon oath, of all the goods and merchandize loaded on board of your vessel, specifying at what port they were received and to whom they belong, either on account of the owners or on freight, together with their marks and numbers, agreeably to the annexed form. You will likewise be pleased to deliver into my office your pass and other credentials concerning your ship, which shall be returned to you after they shall have been inspected.

(Signed) "A. B. Collector of the Customs."

—Reg. IX. 1810, sec. xlv, cl. 2.

58. The following form of the manifest shall be subjoined to the notification,

MANIFEST *of the Cargo of the Ship A, from B, Commander Captain C, under English colours.*

| Marks. | Numbers. | Packages. | Quantity of Goods. | Quality of Goods. | Where shipped. | To whom consigned. |
|---|---|---|---|---|---|---|
| | | | | | | |

—Reg. IX, 1810, sec. xlv. cl. 3.

59. The master or the supercargo shall next proceed to swear to his manifest before one of the Calcutta justices of the peace, and shall return it to the collector of the customs, with a certificate from the police office purporting that he has delivered into that office a list of the European sailors in his ships, specifying their names and the countries to which they are subject, and has entered into a bond not to suffer any of his crew to come on shore with any kind of offensive weapons at any time of the day or night. No merchandize shall be permitted to be landed from any ship or vessel whatever until the above rule shall have been observed, nor until the collector of the customs shall have received from the master-attendant the copy of a list of all Europeans on board (including the name of the commander of the ship or vessel, the names of the officers and crew, and of any passengers who may have arrived in her), which the commanders are further required to deliver to the pilot under whose charge the ship or vessel may have entered the river. But when the above forms shall have been observed, and the prescribed duties shall either have been paid or sufficient security shall have been taken for the amount of them, consisting either of a deposit of goods or of Company's paper, from the owner or freighters of the cargo, they shall be permitted to land the goods.—Reg. IX, 1810, sec. xlv, cl. 5.

60. No permission shall be given for the landing of any cargo or goods belonging to the

captains or officers of ships or vessels importing at Calcutta, or of any baggage belonging to passengers that may come in them, excepting the cargoes, goods, or baggage of the persons named in the preceding paragraph.—Reg. IX, 1810, sec. xlv, cl. 6.

61. Particular care shall be taken by the collector of the customs to prevent vessels mooring or lying between the north-west bastion of the old fort and the export warehouse wharf, nearer than the middle of the stream, and no boats or small craft, excepting such as may be employed in landing goods, are to be allowed to remain within the said limits.—Reg. IX, 1810, sec. xlv, cl. 8.

62. In landing the cargoes of vessels, every separate boat-load shall be accompanied with a note addressed to the collector of the customs, specifying the quantity and quality of the goods. The collector of the customs shall sign an order on such separate note to weigh or examine the goods specified in it, and to pass them. No goods shall be landed without a note or permit, and great care shall be taken that no more goods are passed than the quantity specified in the permit. —Reg. IX, 1810, sec. xlv, cl. 9.

63. When the cargo shall have been landed, the boat notes, or permits mentioned in the preceding paragraph shall be compared with the manifest; after which the collector of the customs shall proceed to make out bills for the duties demandable thereon, under the several provisions of this regulation.—Reg. IX, 1810, sec. xlv, cl. 10.

64. The amount of the pecuniary penalties which may be levied, shall be divided in the same manner as the value of confiscated goods is directed to be divided in paragraph 43.—Reg. IX, 1810, sec. xlv, cl. 15.

65. The duties on manifests shall be finally settled by the collector of the customs without any reference to the Board of Revenue.—Reg. IX, 1810, sec. xlvi.

66. The following rules are to be considered in force for determining the value of goods imported by sea, whether on British or foreign bottoms.—Reg. IX, 1810, sec. xlviii, cl. 1.

67. Whenever goods are passed on deposits, the original invoices or bills shall remain in the custom-house, and shall not be surrendered until the whole of the goods shall have been cleared out and all accounts of duty on them finally adjusted; and if no invoices or bills be produced, the proprietor must give his assent in writing to that valuation, previously to the deposit being received.—Reg. IX, 1810, sec. xlviii, cl. 4.

68. British ships importing at the foreign settlements shall pay duties in the same manner as if they imported at Calcutta.—Reg. IX, 1810, sec. xlviii, cl. 6.

69. No claim for a remission of duty upon liquors or other goods stated to have been found damaged will be admitted, unless the condition of the goods shall have been ascertained previously to their passing the custom-house. On this examination of them at the custom-house, should any of them be found not to be in a merchantable state, such goods must be sold on the spot as the condition of any remission of duty, and the duty will be settled on the proceeds of the sale. But it is to be understood, that no such damaged goods will be permitted to be sold, until the proprietor or his agent shall have caused to be inserted in the Calcutta Gazette an advertisement, specifying the day and time of the sale and the articles to be sold; moreover, all sales of damaged goods at the custom-house are to be made in the presence of the collector or his deputy, and the goods are to be lotted with the approbation of the collector.—Reg. IX, 1810, sec. xlix.

70. No packages, casks, bales, chests, or parcels of goods of any kind, shall be received into the custom-house godowns unless marked or numbered, and no receipts shall be granted for any packages not marked or numbered.—Reg. IX, 1810, sec. l.

71. The Board of Revenue shall have power to fix, and from time to time to alter the rates of wharfage and godown rent-charges, and to determine the time for which goods shall be allowed to remain on the wharfs or in the godowns of the custom-house free of charge, while the goods are being passed for import or export by sea; and no goods shall remain in the custom-house godowns, or under the shed or verandah of the godowns, or on any part of the custom-house wharf, more than the time so fixed, unless by express permission: should any goods remain longer, they shall be liable to a charge for godown rent or wharfage.—Reg. IX, 1810, sec. li; Act XVI, 1837, sec. xvi.

72. The collector of the customs shall grant receipts on application being made for them, excepting in the cases specified in paragraph 70, for all goods landed from ships and lodged in the custom-house. The collector of the customs shall be held responsible for delivering from the custom-house all goods for which receipts shall have been so granted. Should the captains, officers, or passengers, omit to take such receipts upon their goods being landed and lodged as above-mentioned, they shall not be entitled to an indemnification for any part of them which may be lost in passing through the custom-house. The receipts shall be returned on clearing out the goods.—Reg. IX, 1810, sec. lii.

73. An account shall be kept by the tide-waiter of all packages received into or delivered out of the godowns.—Reg. IX, 1810, sec. liii.

74. Ships importing in ballast shall be reported accordingly by the master.—Reg. IX, 1810, sec. liv.

75. The collector of the customs shall report to the Governor-General in Council, through the Board of Revenue, whenever any arms or military stores being private property (with the exception of fowling pieces, pistols, or other arms evidently for private use) are landed from any vessels importing at Calcutta, specifying the nature, numbers, and quantity of such arms and stores, together with the name of the ship and of the commander or consigner. The aforementioned report shall also state whether the arms or stores were originally shipped as private property, or procured from either of the Company's Governments in India.—Reg. IX, 1810, sec. lv.

76. Precious stones, though exempt from duty, must nevertheless, whether on importation or exportation, be entered at the custom-house, and their value be stated, under a penalty of ten per cent. on the value at which they may be estimated after due inquiry by the custom-master.—Reg. IX, 1810, sec. lvi.

77. The importers of goods landed expressly for re-exportation or transhipped in port are nevertheless to pay or deposit security for the import duties, in the same manner as if the goods had been destined for the markets of this country. Should the commanders of the Honourable Company's ships, or others, be desirous, however, of landing stores or other articles in Calcutta merely for temporary purposes, without any view to a sale of such stores or articles, they shall have the option of either paying or depositing security for the import duties thereon as above prescribed or of landing them free of duty, upon making an application for that purpose to the collector of the customs, provided that, in the latter case, they shall at the same time enter into a bond or note to the collector, engaging to pay double duties on all such stores or articles (and which shall be entered at the custom-house expressly for re-exportation), unless they shall be re-shipped on the same vessel within the period of three months from the date of their being landed.—Reg. IX, 1810, sec. lviii.

78. The following rates of exchange shall be adopted in the adjustment of the Calcutta customs :—

*Table of Exchange for the Settlement of the Calcutta Customs.*

| Countries. | Coins. | Rate of Exchange. |
|---|---|---|
| Great Britain .. .. | Pound sterling .. .. .. | at 10 sicca* rupees. |
| Germany .. .. .. | Crown .. .. .. .. .. | at 2 sicca rupees. |
| Denmark .. .. .. | Rix dollar .. .. .. .. | at sicca rupees 1-10. |
| Ceylon .. .. .. | Ditto .. .. .. .. .. | at 14 annas. |
| France .. .. .. | Livre tournois .. .. .. .. | at 24 for 10 sicca rupees. |
| Ditto .. .. .. | Mauritius livre .. .. .. | at 48 for 10 sicca rupees. |
| Spain .. .. .. | Spanish dollar .. .. .. .. | at $2\frac{1}{4}$ sicca rupees. |
| Portugal and Madeira .. | Milrea .. .. .. .. .. | at $2\frac{3}{4}$ sicca rupees. |
| Bussorah .. .. .. | Raize peastre .. .. .. .. | at 12 annas. |
| China .. .. .. | Tule .. .. .. .. .. | at $3\frac{1}{8}$ sicca rupees. |
| Madras .. .. .. | Star pagoda .. .. .. .. | at $3\frac{3}{4}$ sicca rupees. |
| Ditto .. .. .. | Swamy ditto .. .. .. .. | at 4 sicca rupees. |
| America .. .. .. | Currency to be converted into pound sterling as follows : | |
| New England .. .. | By multiplying by 3 divided by 4 .. | The pound sterling to be rated as above at 10 sicca rupees. Where the invoices are in dollars, the dollar to be rated at $2\frac{1}{4}$ sicca rupees. |
| Virginia .. .. .. | Ditto ditto .. .. .. .. | |
| New York .. .. .. | By multiplying by 9 and divided by 16 | |
| Pensylvania .. .. | By multiplying by 3 and divided by 5 . | |
| South Carolina .. .. | By deducting $\frac{1}{16}$ part .. .. .. | |
| Georgia .. .. .. | Ditto .. .. .. .. .. | |

—Reg. IX, 1810, sec. lx; Reg. V, 1812, sec. xix.

NOTE.—The Calcutta sicca rupee has ceased to be a legal tender since the passing of Act XIII, 1836; but by sec. iv, Act VI, 1835, the Company's rupee is declared equivalent to fifteen-sixteenths of the sicca rupee.

79. Two registers of imports by sea shall be kept in the following forms :—

FORT WILLIAM, *Register of Goods imported by Sea, and of the Customs collected thereon, in*

| Register Number. | Date. | Number and nature of Packages. | Vessels. | From whence imported. | Vessels under what Colours. | Merchants' Names. | Sort of Goods. | Quantity of Goods. | Amount of Invoice or adjusted Value. | Rate of Duty. | Amount of Customs levied. |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | | | |

FORT WILLIAM, *Register of Goods imported by Sea, free of Custom on*

| Register Number. | Date. | Number and nature of Packages. | Vessels. | From whence Imported. | Vessels under what colours. | Merchants' Names. | Sort of Goods. | Quantity of Goods. | Amount of Invoice. |
|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | |

Reg. IX, 1810, sec. lxi.

80. All goods for exportation, the property of individuals (with the exceptions hereafter to be specified), shall be shipped from the custom-house with a permit from the collector of the customs. Goods brought for exportation from the interior of the country, previously to being shipped, shall be brought to the custom-house ghaut for examination.—Reg. IX, 1810, sec. lxiv.

81. No goods, wares, or merchandise shall be exported by sea, or be put on board any ship or vessel, or any sloop, boat, or other craft, for the purpose of exportation, or be in any way removed and taken out of the limits of Calcutta for such purpose from the custom-house wharf, or from any other wharf or ghaut, until a license or permit shall have been given in writing by the collector of customs or his deputy, for the exportation of the same from such wharf or ghaut; and any goods secretly or openly laden on any ship or vessel, or put on board, or attempted to be put on board of any boat, sloop, or craft whatever, for the purpose of being carried on ship-board without such written license or permit obtained or passed, or attempted to be passed from the interior otherwise than as above prescribed, shall be forfeited to Government, and may be seized as forfeited by any persons authorized, under the rules of the existing Regulations, to make seizures.—Reg. III, 1830, sec. iii.

82. Grain may, by permission of the collector of the customs, be shipped from the ghauts after it shall have been duly entered at the custom-house.—Reg. IX, 1810, sec. lxv.

83. All applications for permits shall be made to the collector of the customs in writing, and shall specify the name of the vessel on which the goods are to be laden, the name of the commander, and the place to which the vessel is bound; and shall be accompanied by a chellaun or invoice, specifying the numbers and marks of the packages, the sorts and quantities of goods in each, the place of manufacture, and the Calcutta market price thereof. After which official bills shall be made out for the duties, unless the goods be exempted from duty; and the amount shall be paid, or security given for the payment of it in ten days, before the goods shall be permitted to be shipped.—Reg. IX, 1810, sec. lxvii.

84. On exporting gruff or other goods, not being piece goods, one or more chests, bags, or packages, at the discretion of the collector of the customs, may be examined and weighed, subject to the same penalties, in case of a difference from the chellaun.—Reg. IX, 1810, sec. lxx.

See *post*, paragraph 123.

85. All boats laden with goods or merchandize from the interior of the country shall be brought to at the custom-house. The goods on any boats attempting to pass Calcutta without permission from the collector of the customs shall be liable to confiscation.—Reg. IX, 1810, sec. lxxi.

86. Provisions and stores for the use of Her Majesty's navy, which are the immediate property of the Crown, may be passed free of duty; but articles of provisions furnished to Her Majesty's squadron by the contractors or their agents are not to be exempted from the payment of the prescribed duties.—Reg. IX, 1810, sec. lxxii.

87. Parcels for individuals and necessaries shall be passed at the discretion of the collector of the customs.—Reg. IX, 1810, sec. lxxiii.

See *post*, paragraph 109.

88. Goods for exportation free from duty shall nevertheless be entered at the custom-house, in the same manner as if they were goods paying duties.—Reg. IX, 1810, sec. lxxiv.

89. It is to be observed as an invariable rule not to admit any claims for drawback, unless the goods shall be exported regularly through the custom-house, and be included in the manifest of the export cargo delivered into the custom-house by the commander or owner of the vessel on which they may be exported, with the application for a port clearance. Nor, in any case, after the port-clearance shall have been taken out.—Reg. IX, 1810, sec. lxxvi.

90. No drawback shall be allowed on the re-exportation of articles imported from sea forming only a part of the package in which they were imported, or on any package that may not be entire as imported.—Reg. IX, 1810, sec. lxxvii.

91. No claim for a return of duty upon goods stated not to have been shipped shall be admitted after the vessel shall have quitted the anchorage at Saugur.—Reg. IX, 1810, sec. lxxviii.

See further rules relating to drawbacks, *post*, paragraph 140.

92. Persons who may be desirous of exporting opium purchased at the Company's sales shal produce a certificate from the Board of Revenue, or their officers, signifying that the opium in question was purchased at the Company's sales. The certificate must specify the purchase, lot, the mark and number upon each of the chests applied for, the name of the purchaser, the cost of the opium, and the date of the sale. Any opium not really purchased at the Company's sales, and attempted to be passed as such, or not corresponding with the certificate, shall be liable to confiscation.—Reg. IX, 1810, sec. lxxix.

93. Persons desirous of sending presents or articles for family use to Europe, as permitted by the Honourable Court of Directors, shall pay the export duties thereupon. The parcels or packages containing such presents or articles, the value of which shall not exceed three thousand rupees, shall in future be registered at the office of the secretary to the Board of Revenue, and when application is made to him for such registry, it must be accompanied by a certificate from the collector of the customs that the duties have been duly settled. The secretary to the Board of Revenue shall not register any parcel or package without the required certificate.—Reg. IX, 1810, sec. lxxx.

94. The master-attendant shall not grant a pilot, to any vessel until a certificate shall be produced to him from the collector of the customs of the duties on her cargo both import and export, having been paid or settled, or of her export cargo (if exempt from duties) having been entered at the custom-house, as directed in paragraph 88, together with a certificate from the police-office, purporting that the commander or supercargo has delivered into that office a list of the European seamen embarked on the vessel.—Reg. IX, 1810, sec. lxxxi.

95. The pilot of every vessel which may have obtained her clearance shall be ordered by the master-attendant not to permit any goods or merchandize to be received on board, unless the goods shall be accompanied by a certificate from the collector of the customs of their having paid or settled the export duties.—Reg. IX, 1810, sec. lxxxii.

96. If the commander of the vessel shall, notwithstanding the remonstrance of a pilot, receive on board any goods or merchandize not accompanied with a certificate as prescribed in the preceding paragraph, the pilot shall immediately report the circumstance to the master-attendant, and detain the vessel for his further orders, and all goods in such predicament shall be liable to confiscation. Moreover, goods seized in the attempt to ship them in a clandestine manner shall be liable to confiscation.—Reg. IX, 1810, sec. lxxxiii.

97. Goods transhipped without permission first obtained from the collector of the customs, or shipped, or attempted to be shipped upon any other vessel than that for which they may have been passed at the custom-house, shall be subject to double duty.—Reg. IX, 1810, sec. lxxxiv.

98. Two registers of exports by sea shall be kept in the following forms:

FORT WILLIAM, *Register of Goods exported by Sea, and of the Customs collected thereon in———.*

| Register Number. | Dates. | Number and nature of Packages. | Vessels. | Where bound. | Vessels under what Colours. | Merchants' Names. | Place of manufacture or produce. | Sort of Goods. | Quantity of Goods. | Valuation. | Amount of Customs. |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | | | |

FORT WILLIAM, *Register of Goods exported by Sea, free of Customs, in* ———.

| Register Number. | Dates. | Number and nature of Packages. | Vessels. | Where bound. | Vessels under what Colours. | Merchants' Names. | Place of manufacture or produce. | Sort of Goods. | Quantity of Goods. | Amount of Invoice. |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | | |

—Reg. IX, 1810, sec. lxxxvi.

99. The collector of the Government customs at Calcutta is moreover to keep a register of all piece goods and of indigo imported into Calcutta from the interior of the country under rowannah, and which shall be entered for exportation by sea.—Reg. IX, 1810, sec. lxxxvii.

100. Dhonies or other coasting vessels liable to the duties of pilotage shall not be permitted to land or ship their cargoes until the master-attendant shall have certified to the collector of the customs that those duties have been paid, or that sufficient security has been given for the payment of them.—Reg. IX, 1810, sec. lxxxviii.

See *post*, paragraph 136.

101. In every instance, either of imports or exports, where the duties have been paid without any objections having been made to the rate of assessment, the collector is to consider it an invariable rule to reject all claims for a return of any part of the duties so paid.—Reg. IX, 1810, sec. xc.

102. All goods imported or exported shall be weighed by the Company's scales and weights.—Reg. IX, 1810, sec. xci.

103. The kyallee dustoor abolished by section ii, Regulation LVII, 1795, shall remain finally abolished.—Reg. IX, 1810, sec. xcii.

104. All such general rules for the collection of the Government customs contained in this Regulation as may not be at variance with the foregoing special rules, shall be considered applicable to the collection of the Government customs of Calcutta on imports and exports, and shall be adhered to accordingly.—Reg. IX, 1810, sec. xciii.

105. Paragraphs 98 and 99, for regulating the drawback allowed on exports from Calcutta, shall equally apply to the ports of Chittagong and Balasore.—Reg. IX, 1810, sec. xcvi.

### GENERAL RULES FOR SEA CUSTOMS IN THE LOWER PROVINCES.

106. Such parts of Regulations IX and X, 1810, Regulation XV, 1825, and of any other Regulations of the Bengal presidency as prescribe the levy of transit or inland customs duties, or of town duties; and likewise the schedules of duties and provisions of any kind contained in these, or any other Regulations for fixing the amount of duty to be levied upon goods imported into, or exported from, the said presidency by sea, shall be repealed; provided, however, that nothing herein contained shall be construed to prevent the levy of duties at the rates now in force at the custom-houses and chokies established on the line of the Jumna, or any frontier line, upon goods crossing that line for import into, or export from, the territory of the East India Company by land, nor to affect the Regulations in force for imposing and levying duties on salt, the produce of Western and Central India.—Act XIV, 1836, sec. i.

See *post*, paragraph 167.

107. Duties of customs shall be levied on goods imported by sea into Calcutta, or into any other place within the provinces of Bengal and Orissa, according to the rates specified in Schedule (A) hereunto annexed, and with the exceptions specified therein; and the said schedule, with the notes attached thereto, shall be taken to be a part of this Act.—Act XIV, 1836, sec. ii.

108. Duties of customs shall be levied upon country goods exported by sea from any port of Bengal or Orissa, according to the rates specified in Schedule (B) hereunto annexed, with the exceptions therein specified; and the said schedule with the notes attached thereto, shall also be taken to be a part of this Act.—Act XIV, 1836, sec. iii.

109. No goods or articles whatsoever, entered in either of the said schedules as liable to duty, shall be exempted from the payment of such duty or of any part thereof, except under special order

from the Governor of Bengal: provided, however, that it shall and may be lawful for the collector of customs, or other officer in charge of a custom-house, to pass free of duty, as heretofore, any baggage in actual use, at his discretion; and in case of any person applying to have goods passed as such, the collector acting under the orders of the Board of Revenue, shall determine whether they be baggage in actual use, or goods subject to duty, under the rules of this Act.—Act XIV, 1836, sec. iv.

110.* The rules and Regulations now established for the levy of duties of customs on goods imported into, or exported from, Calcutta and other ports of the presidency of Fort William in Bengal, shall continue to be in force, and shall be observed and applied for the levy of the import and export duties imposed by this Act, unless repealed or altered, or repugnant to the provisions thereof.—Act XIV, 1836, sec. v.

111. It shall be lawful for the Governor of the presidency of Fort William in Bengal, by an order printed in the Calcutta Gazette, to fix a place in any river or port in Bengal or Orissa, beyond which place it shall not be lawful for any inward-bound vessel, save and except such dhonies and country craft as are referred to in paragraph 136, to pass until the master or commander shall have delivered to the pilot on board, for the purpose of being forwarded by the public dawk or otherwise, as may be ordered by the Board of Revenue, a manifest made out in the form prescribed by paragraph 58. And it is hereby enacted, that if the manifest so delivered by the master and commander shall not contain a full and true specification of all the goods imported in the vessel, the master or person in charge thereof shall be liable to a fine of one thousand rupees; and any goods or packages that may be found on board in excess of the manifest so delivered, or differing in quality or kind, or in marks and numbers from the specification contained therein, shall be liable to be seized and confiscated, or to be charged with such increased duties as may be determined by the Board of Revenue; and if any inward-bound vessel shall remain outside, or below the place so fixed by the Governor of Bengal, the master or commander shall in like manner deliver to the pilot, so soon as the vessel shall anchor, a manifest as above prescribed; and if any vessel entering a port for which there is a custom-house established, shall lie at anchor therein for the space of twenty-four hours, the master and commander whereof shall neglect to deliver the said manifest to the pilot on board, he shall for such neglect be liable to forfeit the sum of one thousand rupees; and no entry or port clearance shall be given for such vessel until the fine is paid.—Act XIV, 1836, sec. vi.

112. No vessel shall be allowed to break bulk until the manifest described in the preceding paragraph, and another copy thereof to be presented at the time of applying for entry inwards, shall have been received by the collector of customs, and order shall have been given by the said collector for the discharge of the cargo; and the said collector may further refuse to give such order if he shall see fit, until any port clearances, cockets, or other papers, known to be granted at the places from which the vessel is stated to have come, shall likewise be delivered to him.—Act XIV, 1836, sec. vii.

113. It shall be competent to the collector of customs at any port of Bengal or Orissa, at his discretion, to send one or more officers of customs on board of any vessel at any time; and the custom-house officer so sent shall remain on board of such vessel by day and by night, until the vessel shall leave the port, or until it be otherwise ordered by the collector of customs.—Act XIV, 1836, sec. viii.

114. Any master or person in charge of such vessel, who shall refuse to receive a custom-house officer on board when so deputed as above provided, shall be liable to fine not exceeding the sum of five hundred rupees for each day during which such officer shall not be received, which fine shall be adjudged by and at the discretion of the Board of Revenue at Calcutta; and the vessel, by the master or person in charge of which such fine shall have been incurred, shall not be moved until the same shall be paid. The commander of every such vessel shall also be bound to receive on board one servant of such officer, and to provide such officer and such servant with suitable shelter and accommodation, and likewise with a due allowance of fresh water, and with the means of cooking on board; and if any commander of a vessel shall wilfully disobey these directions, he shall be punished with a fine not exceeding five hundred rupees.—Act XIV, 1836, sec. ix.; Act XVI, 1837, sec. vi.

115. Whenever a collector of customs shall see cause to direct that any vessel shall be searched, he shall issue his warrant or written order for the same, addressed to the custom-house officer on board, or to any other officer under his authority; and upon production of such order, the officer bearing it shall be competent to require any cabins, lockers, or bulkheads to be opened in his presence, and, if not opened upon his requisition, to break the same open, and any goods that may be found concealed, and that shall not be duly accounted for to the satisfaction of the collector of customs, shall be confiscated; and any master or person in charge of a vessel who shall resist such officer, or refuse to allow the vessel to be searched when so ordered by the collector of customs,

shall be liable upon conviction for every such offence to a fine of one thousand rupees, to be adjudged by any magistrate or justice of the peace of the place.—Act XIV, 1836, sec. x.

116. Every master of a vessel who shall remove from such vessel, or put on board thereof any goods, or cause or suffer any goods to be removed thence, or put on board thereof, between sunset and sunrise, or on any day when the custom-house is closed for business, without leave in writing obtained from the collector of customs, shall be punished with a fine not exceeding five hundred rupees.—Act XVI, 1837, sec. iv.

117. No goods shall be allowed to leave any vessel, or to be put on board thereof, until entry of the vessel shall have been duly made in the custom-house of the port, and order shall have been given for discharge of the cargo thereof, as above provided; and it shall be the duty of the custom-house officer on board, and of all officers of customs, to seize as contraband any goods which shall have been removed or put on board of any vessel in contravention of the above provision, or which any attempt shall have been made to remove from or to put on board of any vessel in contravention of the above provision. And after entry of the vessel at the custom-house in due form, such part of the cargo as may not be intended and declared for re-exportation in the same vessel shall be sent to land. And export cargo shall be laden on board thereof according to the rules and practice now in force; and if an attempt be made to land or put on board goods or merchandise in contravention thereof, the goods or merchandise shall be liable to seizure and confiscation.—Act XIV, 1836, sec. xi.

118. Provided, however, that no goods shall be allowed to leave any vessel under the said rules, unless the same be duly manifested; and any goods found on board in excess of the manifest, or not corresponding with the specification and description therein contained, shall be seized by the custom-house officer on board, in order that they may be dealt with as prescribed in paragraph 111; and if goods entered in the manifest shall not be found on board the vessel, or if the quantity found be short, and the deficiency be not duly accounted for, or if goods sent out of the vessel be not landed at the Custom-house, or at such other ghaut or place as the collector of customs shall have prescribed or permitted, there to be passed in due form, the master or commander shall be liable to a penalty not exceeding five hundred rupees for every missing or deficient package of unknown value, and for twice the amount of duty chargeable on the goods deficient and unaccounted for, if capable of being assessed therewith: provided, however, that nothing herein contained shall be construed to prevent the collector of customs from permitting the master or commander of any vessel to amend obvious errors, or to supply omissions from accident or inadvertence, by furnishing an amended or supplemental manifest; but the receiving of such shall always be discretionary.—Act XIV, 1836, sec. xii.

119. It shall be lawful for the collector of customs, whenever he shall see fit, to require that goods brought by sea and stowed in bulk shall be weighed on board ship before being sent to land, and to levy duty according to the result of such weighing.—Act XVI, 1837, sec. xvii.

120. Whoever shall intentionally offer any obstruction to the weighing directed by the preceding paragraph shall be punished with a fine not exceeding five hundred rupees.—Act XVI, 1837, sec. xviii.

121. No cargo-boat, laden with goods intended for exportation by sea, shall make fast to, or lie alongside of, any vessel, unless there shall be on board the boat, or have been received by the custom-house officer on board of the vessel, a custom-house permit or order for the shipment of the goods; and the goods on board of any boat that may so lie alongside, or may be made fast to a vessel, if such goods be not covered by a custom-house pass accompanying them, or previously received by the customs officer on board the said vessel, shall be liable to confiscation.—Act XVI, 1837, sec. vii.

122. When goods shall be sent from on board ship for the purpose of being landed and passed for importation, there shall be sent with each boat-load or other separate despatch, a boat-note, specifying the number of packages and the marks and numbers or other description thereof, and such boat-note shall be signed by an officer of the vessel, and likewise by the customs officer that may be on board; and if any imported goods be found in a boat proceeding to land without a boat-note, or if, being accompanied by a boat-note, they be found out of the proper track between the ship and the custom-house wharf, or other wharf or ghaut at which they have been permitted to be landed, the boat containing such goods may be detained by any inspector or by any other officer of the preventive service of the custom-house, duly authorized by the collector of customs; and unless the cause of deviation be explained to the satisfaction of the officers of customs, the goods shall be liable to confiscation.—Act XVI, 1837, sec. viii.

123. When goods shall be brought to be passed through the custom-house, either for importation or exportation by sea, if the packages in which the same may be contained shall be found not to correspond with the description of them given in the application for passing them through the custom-house, or if the contents thereof be found not to have been correctly described in regard to

sort, quality, or quantity, or if any goods not stated in the application be found concealed in or mixed up with the specified articles, all such packages, with the whole of the goods contained therein, shall be liable to confiscation.—Act XVI, 1837, sec. ix.

124. Any articles of foreign manufacture, and any packages of such articles imported into the territories subject to the Government of the said Company, bearing any names, brands, or marks purporting to be the names, brands, or marks of manufacturers resident in the United Kingdom, shall be forfeited.—Act XXV, 1843.

125. If any person, after goods have been landed, and before they have been passed through the custom-house, removes or attempts to remove them, with the intention of defrauding the revenue, the goods shall be liable to confiscation.—Act XVI, 1837, sec. x.

126. Any custom-house officer whatsoever, who shall demand or accept any gratuity not authorized by any existing Regulation or order of Government, in consideration of doing, or omitting to do, any act in his official capacity, shall forfeit for every such offence the sum of five hundred rupees; and any person who shall offer a bribe to any custom-house officer, in order to induce such officer to act in a manner inconsistent with his duty, shall forfeit a like sum, and these penalties shall be adjudged on conviction before any magistrate or justice of the peace of the town, district, or place where the custom-house may be established by such magistrate, and in default of payment, any person so convicted shall be committed to the civil gaol of the city or district until the fine be paid, or for a period not exceeding six months.—Act XIV, 1836, sec. xiii.

127. When goods shall be seized as contraband, and liable to confiscation, the collector of customs shall investigate the case, and, according to his judgment, shall either release the goods or adjudge them to confiscation; and whenever he shall declare goods to be confiscated, he shall report his proceedings for confirmation and final adjudication by the Board of Revenue. Provided, however, that nothing herein contained shall be construed to prevent the Governor of Bengal from ordering the release of goods seized, or from remitting any penalty whatsoever that may be incurred for contravention of the custom laws.—Act XIV, 1836, sec. xiv.

128. Twenty days, exclusive of Sundays and holidays, shall be allowed for the discharge of the import cargo of vessels not exceeding six hundred tons burthen, and thirty days, exclusive of Sundays and holidays, for the discharge of the import cargo of vessels exceeding that burthen; and the said periods shall be calculated from the day of the tide-waiter or other custom-house officer first going on board. And if the whole cargo be not discharged by the expiration of the above-stated periods respectively, the master or commander shall be charged with the tide-waiter's or other officer's wages, and other expenses, for any further period that he or they may be detained on board. And if the owners, importers, or consignees do not bring their goods to land within the periods above fixed, it shall be the duty of the master or commander so to do. And if any goods remain on board after the time fixed as above for the discharge of the import cargo, the collector may order the same to be landed and warehoused for the security of the duties chargeable, and of any freight and primage, and other demands that may be due thereon, giving his receipt to the master for the same. Provided always, that in all cases it shall be lawful for the collector or other officer in charge of the custom-house, with the consent of the master of the vessel, to cause any packages to be brought on shore, and to be deposited in the Government warehouse for the security of the duties and charges thereon, although twenty days may not have expired from the entry of such vessel; and in case goods so landed and warehoused, or any goods brought to land from any vessel, be not claimed and cleared from the custom-house within three months from the date of entry of the ship in which such goods were imported, it shall be competent to the collector to sell the same on account of the duties, freight, and other charges incurred and due thereon.—Act XIV, 1836, sec. xv; Act XVI, 1837, sec. xiii.

129. A further period of fifteen days, Sundays and holidays excluded, shall be allowed for putting on board export cargo, if the vessel shall not exceed six hundred tons burthen, and twenty days, if exceeding that burthen, when the lading and unlading thereof shall be continuous; and the master or commander shall, in such case, not be charged with the wages and expenses of the custom-house officer on board, until after the expiration of such additional periods respectively. And if a vessel, having discharged its import cargo, shall be laid up, the custom-house officer on board shall be withdrawn so soon as he shall certify that no goods remain on board excepting necessary stores and articles for use; and when a vessel so laid up shall be entered at the custom-house for receipt of export cargo, a custom-house officer shall be sent on board, and if the said last-mentioned officer shall certify that no goods are on board saving as above excepted, twenty days, exclusive of Sundays and holidays as above, shall be allowed from the date of such certificate for the lading outwards of a vessel not exceeding six hundred tons, and thirty days for vessels exceeding that burthen; after which periods respectively, the master and commander shall be charged with the wages and expenses of the custom-house officer on board, to the date of the vessel's sailing from the port.—Act XIV, 1836, sec. xvi; Act XVI, 1837, sec. v.

130. When, upon application from the commander of any vessel, the custom-house officer shall

be removed from on board thereof under the provisions to that effect contained in the preceding paragraph, if the commander of such vessel shall, before a custom-house officer have again been placed in such vessel, put on board of such vessel, or cause or suffer to be put on board of such vessel, any goods whatever, such commander shall be punished with a fine not exceeding one thousand rupees, and the goods shall be liable to be re-landed for examination at the expense of the shipper or shippers upon requisition to that effect from the collector of customs.—Act XIV, 1836, sec. xvi.—Act XVI, 1837, sec. v.

131. If any person in charge of a vessel shall have become liable to any penalty, fine, or demand on account of any act or omission relating to customs, the collector of customs shall be competent, subject to the orders of the Board of Revenue, to refuse port clearance to such vessel until the fine shall be discharged.—Act XIV, 1836, sec. xvii.

132. Upon any goods passed through the custom-house for shipment, the application for which shall be presented after port clearance shall have been taken out, double the prescribed duty shall be levied; and if the same be imported goods entitled to drawback, such drawback shall be forfeited, but no separate duty shall be levied; if the goods be free, five per cent. upon the market value shall be levied thereon.—Act XIV, 1836, sec. xviii; Act XVI, 1837, sec. xii.

133. When a vessel having cleared out from any port, shall put back from stress of weather, or it shall for any damage, or from other cause, be necessary that the cargo of a vessel that has cleared out shall be unshipped or re-landed, a custom house officer shall be sent to watch the vessel, and take charge of the cargo during such re-landing or removal from on board; and the goods on board such vessel shall not be allowed to be transhipped or re-exported free of duty, by reason of the previous settlement of duty at the time of first export, unless the goods shall be lodged in such place as shall be allowed by the collector of customs, and shall remain while on land, or while on board of any other vessels, under special charge of the officers of customs, until the time of re-export; and all charges attending such custody shall be borne by the exporter, or by the applicant for this advantage. Provided however, that in all cases of return to port after port clearance, on account of damage or for stress of weather, it shall be lawful for the owner, or for the master and commander, to re-enter the vessel, and land the cargo, under the rules for the importation of goods; and the export duty shall in that case be refunded, and the amount paid in drawback be reclaimed, and the goods be placed in all respects as before being passed for exportation; and if goods, on account of which drawback has been paid, be not found on board the vessel, the master shall forfeit the entire value thereof, unless he account for them to the satisfaction of the collector of customs.—Act XIV, 1836, sec. xix.

134. When goods shall be re-landed before the lading of any vessel is complete, and port clearance has been granted, the duty levied upon such goods shall be returned to the exporter, but no refund shall be made of duty paid on the export of any goods after port clearance shall have been granted for the vessel on which the goods were exported, except the vessel shall have to put back for stress of weather or for damage, and the goods shall have been re-landed, under the rule contained in the preceding paragraph.—Act XIV, 1836, sec. xx.

135. Vessels owned by natives of Arabia, and coming from the ports thereof, and likewise the vessels of any country or port of Asia not subject to the dominion of the King of the United Kingdom of Great Britain and Ireland, excepting dhonies and small craft from the Maldive and Nicobar Islands, as hereinunder provided, shall be deemed foreign vessels.—Act XIV, 1836, sec. xxi.

136. Dhonies, country craft, and other small vessels, not brought into the port of Calcutta by pilots, shall be required to anchor and moor in such part of the river Hooghly as shall be marked out by the collector of customs, with the sanction of the Board of Revenue; and if any such vessel shall anchor in any other part of the river than as so marked out, and the master or person in charge thereof shall not immediately, upon being ordered so to do, move his vessel to the place marked out, he shall be liable to a fine of one hundred rupees, to be adjudged by the collector of customs; and the vessel, or any part of its equipment or cargo, may be seized and sold in satisfaction of such fine; and goods shall be landed from such vessels, and put on board for export, according to such rules, and at such places, as shall be prescribed by the collector of customs: and vessels of this description coming from the Maldives, or from the Nicobar Islands, shall be considered as British vessels.—Act XIV, 1836, sec. xxii.

137. Woollens, whether the manufacture of Europe, India, or any other country, shall not be shipped for exportation from Bengal to China, on any account whatever.—Reg. I, 1812, sec. xxvi.

138. Whenever any duty of customs, or in the nature thereof, is leviable on any given quantity by weight, measure, or value of any goods or merchandise, a like duty is leviable according to the same rate on any greater or less quantity.—Act V, 1849, sec. ii.

139. SCHEDULES.

SCHEDULE (A).

RATES OF DUTY to be charged on Goods imported by Sea into any Port of the Presidency of Fort William in Bengal.

| No. | ENUMERATION OF GOODS. | |
|---|---|---|
| 1 | Bullion and coin | Free |
| 2 | Precious stones and pearls | Ditto |
| 3 | Grain and pulse | Ditto |
| 4 | Horses, and other living animals | Ditto |
| 5 | Ice | Ditto |
| 6 | Coal, coke, bricks, chalk, and stones | Ditto |
| 7 | Books printed in the United Kingdom, or in any British possession | Ditto |
| 8 | Foreign books | 3 per cent. |
| 9 | Marine stores, the produce or manufacture of the United Kingdom, or of any British possession | 5 per cent. |
| 10 | Marine stores, the produce or manufacture of any other place or country | 10 per cent. |
| 11 | Metals, wrought or unwrought, the produce or manufacture of the United Kingdom, or of any British possession | 5 per cent. |
| 12 | Metals, wrought or unwrought, excepting tin, the produce or manufacture of any other place | 10 per cent. |
| 13 | Tin, the produce of any other place than the United Kingdom, or any British possession | 10 per cent. |
| 14 | Woollens, the produce or manufacture of the United Kingdom, or any British possession | 5 per cent. |
| 15 | Woollens, the produce of any other place or country | 10 per cent. |
| 16 | Cotton and silk piece-goods, and all manufactures of cotton or silk, except thread, twist and yarn, or of cotton or silk mixed with any other material, the produce of the United Kingdom, or of any British possession | 5 per cent. |
| 17 | Ditto, the produce of any other place | 10 per cent. |
| 18 | Cotton-thread, twist, and yarn, the produce of the United Kingdom, or of any British possession | 3½ per cent. |
| 19 | Ditto, the produce of any other place | 7 per cent |
| 20 | Opium | 24 rs. per seer of 80 tolas |
| 21 | Salt | 3-4 rs. per maund of 80 tolas per seer |
| 22 | Alum | 10 per cent. |
| 23 | Camphor | 10 per cent. |
| 24 | Cassia | 10 per cent. |
| 25 | Cloves | 10 per cent. |
| 26 | Coffee | 7½ per cent. |
| 27 | Coral | 10 per cent. |
| 28 | Nutmegs and Mace | 10 per cent. |
| 29 | Pepper | 10 per cent. |
| 30 | Rattans | 7½ per cent. |
| 31 | Tea | 10 per cent. |
| 32 | Vermilion | 10 per cent. |
| 33 | Porter, ale, beer, cider, and other similar fermented liquors | 5 per cent. |
| 34 | Wines and liqueurs | 1 rupee per imperial gallon |
| 35 | Spirits, consolidated duty, including that levied heretofore through the police of Calcutta<br>And the duty on spirits shall be ratenbly increased as the strength exceeds London proof; and when imported in bottles, five quart bottles shall be deemed equal to the imperial gallon | 1 rupee and 8 annas per imperial gallon. |
| 36 | All articles not included in the above enumeration | 5 per cent. |

—Schedule A, Act XIV, 1836; Act IX, 1845.

## SCHEDULE (B).

RATES OF DUTY to be charged upon Goods exported by Sea from any Port or Place in the Presidency of Fort William, in Bengal.

| No. | ENUMERATION OF GOODS. | |
|---|---|---|
| 1 | Bullion and coin .. .. .. .. .. .. | Free. |
| 2 | Precious stones and pearls .. .. .. .. .. | Ditto. |
| 3 | Books printed in India .. .. .. .. .. | Ditto. |
| 4 | Horses, and living animals .. .. .. .. .. | Ditto. |
| 5 | Opium purchased at Government sales in Calcutta .. .. | Ditto. |
| 6 | Cotton wool exported to Europe, the United States of America, or any British possession in America .. .. .. .. | Ditto. |
| 7 | Cotton wool exported to places other than above.. .. .. | 8 annas per maund of 80 tolas per seer. |
| 8 | Sugar exported to the United Kingdom, or to any British possession not on the continent of India* .. .. .. .. | Free |
| 9 | Sugar exported to any British possession or settlement on the continent of India (including the port of Bombay), or to any other place .. .. .. .. .. .. | 3 per cent. |
| 10 | Rum exported to the United Kingdom, or to any British possession not on the continent of India .. .. .. .. | Free |
| 11 | Rum exported to any other place .. .. .. .. | 3 per cent. |
| 12 | Grain and pulse of all sorts .. .. .. .. .. | 1 anna per bag not exceeding 2 maunds of 80 tolas to the seer, or if exported otherwise than in bags, ¼ anna per maund. |
| 13 | Indigo .. .. .. .. .. .. .. | 3 rs. per maund of 80 tolas to the seer. |
| 14 | Lac dye and shell lac .. .. .. .. .. | 4 per cent. |
| 15 | Silk, raw filature .. .. .. .. .. .. | 3½ annas per seer of 80 tolas. |
| 16 | Silk, Bengal wound.. . .. .. .. .. | 3 annas per seer of 80 tolas |
| 17 | Tobacco .. .. .. . .. .. .. | 4 annas per maund. |
| 18 | All country articles not enumerated or named above .. .. | 3 per cent. |

—Schedule B, Act XVI, 1836; Act XVI, 1837, sec. xvi.

* The amount of duties levied on sugar exported to any British possession or settlement on the continent of India shall be credited, in the adjustment of any import duty to which the sugar so exported from Bengal may be subject, at any place of import within the possessions of the East-India Company.—Act. XVI. 1837, sec. xi.

## DRAWBACKS.

140. It shall be lawful for the Governor of the presidency of Fort William in Bengal, from time to time, by notice in the official gazette, to fix a value for any article liable to ad-valorem duty, and the value so fixed by the Governor of the said presidency shall, till altered by a similar notice, be taken to be the value of such article for the purpose of levying duty on the same. —Act. XVI, 1837, sec. iii.

### *On Imports.*

141. When the duty is declared to be ad valorem, it shall be levied on the market value at the place and time of importation, or on the value fixed under the preceding paragraph without deduction; and if the collector of customs shall see reason to doubt whether the goods come from the country from which they are declared to come by the importer, it shall be lawful for the collector of customs to call on the importer to furnish evidence as to the place of manufacture or production; and if such evidence shall not satisfy the said collector of the truth of the declaration, the goods shall be charged with the highest rate of duty, subject always to an appeal to the Board of Revenue.—Act XIV, 1836, sched. A.—Reg. VI, 1833, sec. ii.

142. The value of all goods and merchandise subject to ad valorem duties shall be stated on the face of the application to clear the same from the custom house, that may be presented by the importer, consignee, or proprietor of such goods, or his known agent or factor, who shall further subjoin to the said application a declaration of the truth of the same in the manner and form following.

FORM OF APPLICATION TO PASS GOODS.

To

The Collector of sea customs.

SIR,

Be pleased to grant a permit to pass into town the undermentioned goods, landed from the Captain under colours from

| Number and Description of Packages. | Marks and Numbers upon Packages. | Description of Goods, and Contents of each Package. | Total Quantity of Goods. | Rate of Value in Rs. of each Class and Description of Goods. | Total Value in Rs. of the whole of each Class and Description of Goods. | Name of the Consignee of the Goods. |
|---|---|---|---|---|---|---|
| Numbers in words at length. | | In detail. | | | | |

do hereby declare that the goods above specified are of the growth, produce, or manufacture of and that do enter them at the total value of rupees As witness my hand, this day of 18 .

Value rupees A. B.

Admitted by me,

C. D.,

Appraiser

As the case may be. { Proprietor, or Consignee, or Duly authorized to act on behalf of

—Reg. VI, 1833, sec. iii. cl. 1.

143. The above declaration shall be subscribed by the proprietor, importer, or consignee, or his known agent or factor; and if upon view or examination of such goods, wares or merchandise, by the officers of the customs, it shall appear to them that such goods, wares, or merchandise, or any portion thereof, or any article or articles separately valued as above for assessment of duty, are not or is not valued according to the fair Calcutta market price at the time of such declaration, then it shall be lawful for the collector or other officer or officers of the customs duly authorised in that behalf, to detain such goods, wares, or merchandise, or such article or articles, and to cause the same to be lodged in the Government warehouses, or otherwise secured, until the pleasure of the Board of Revenue, or other authority acting with the powers of the Board, shall be known and declared; and it shall be lawful for the said Board or other authority to order the collector to take such goods, wares, or merchandise for the use and benefit of the Honourable Company at any time within eight days from the date on which the application of the importer or proprietor may have been made; and the collector or other officer aforesaid shall, in such case, within fifteen days of the same date, pay to the proprietor, importer, or consignee of such goods, wares, or merchandise, or article or articles, so detained and taken for the Company, the value thereof as declared and set forth upon the import application, by such proprietor, importer, or consignee, or by his known agent or factor.—Reg. VI, 1833, sec. iii, cl. 2.

144. When payment may be so made to the importer or proprietor of such goods, wares, or merchandise, the same shall be in full satisfaction for the goods, in the same manner as if such goods, wares, or merchandise, had been transferred by ordinary sale; and the collector, under the direction of the Board of Revenue, shall cause the said goods, wares, or merchandise to be sold to the best advantage on account of Government.—Reg. VI, 1833, sec. iii, cl. 3.

145. In all cases in which goods shall be taken and purchased by or on account of Government, the duties payable thereon shall be levied from the proprietor, importer, or consignee thereof, according to the value declared and set forth on the import application.—Reg. VI, 1833, sec. iv.

*Exports:*

146. When the duty is declared to be ad valorem, the same shall be levied on the value fixed under paragraph 140, or on the marketvalue, at the place of export, without deduction; the value of such goods shall be declared by the exporter in the manner prescribed by paragraphs 141 to 144, for goods imported into Calcutta by sea, and those provisions for cases of disputed value shall apply to goods intended to be exported by sea in like manner as for imported goods, and the value so to be declared by the exporter shall include the packages or materials in which the goods may be contained.—Act XVI, 1837, sec. ii.

147. And upon the re-export by sea of goods imported, excepting opium and salt, provided the goods be identified to the satisfaction of the collector of customs, there shall be retained one-eighth of the amount of duty levied, and the remainder shall be repaid as drawback. And if goods be re-exported in the same ship without being landed, (always excepting opium and salt, in regard to which the special rules in force shall continue to apply), there shall be no import duty levied thereon.—Act XIV, 1836, sched. A.

148. No payment shall be made of drawback upon any goods exported from any port of Bengal or Orissa, unless the export be made within two years from the date of the import in the custom-house registers, nor unless the claim to receive such drawback be made at the time of exportation, nor unless the amount due thereupon be demanded within one year from the date of entry for shipment in the custom-house registers.—Act XVI, 1837, sec. xiv.

149. Credit shall not be given, nor shall drawback be allowed, of any inland customs or land frontier duty, paid at any custom-house or chokee of the Jumna frontier line, or of Benares, except only upon the article of cotton wool covered by rowannahs taken out at the custom-houses of the Western-Provinces, and proved to have been destined for export by sea when passed out of those provinces.—Act XIV, 1836, sched. B.

150. Drawback shall not be allowed upon goods shipped in dhonies and native craft not navigated by pilots, and not having custom-house officers on board.—Act XVI, 1837, sec. xv.

FOREIGN TRADE AND PRIVILEGES OF FOREIGN BOTTOMS.

151. The following Regulation, passed by the Honourable the Court of Directors of the United Company of Merchants of England trading to the East Indies, shall take effect and be in full force, within the territories subject to the presidency of Fort William.

A Regulation for rescinding the existing Regulation of the 31st of December, 1817, relating to the conduct of the trade between the British possessions in India, and the countries and states in amity with His Majesty, and for making other provisions in lieu thereof.

Whereas by a Regulation passed by the Court of Directors of the United Company of Merchants of England trading to the East Indies, on the 31st of December, 1817, intituled "A Regulation for carrying on the trade between the British possessions in India and the countries and states in amity with His Majesty," reciting, that "by an Act passed in the thirty-seventh year of the reign of His late Majesty King George the Third, intituled 'An Act for regulating the trade to be carried on with the British possessions in India by the ships of nations in amity with His Majesty,'" it was "enacted, that from and after the passing of that Act, and during the continuance of the exclusive trade of the United Company of Merchants of England trading to the East Indies, and during the term for which the possession of the British territories in India is secured to the said United Company, it should be lawful for the ships and vessels of countries and states in amity with His Majesty to import into and export from the British possessions in India such goods and commodities as they should be permitted to import into and export from the said possessions by the Directors of the said Company, who were thereby directed to frame such Regulations for carrying on the trade to and from the said possessions, and the countries and states in amity with his Majesty, as should seem to them most conducive to the interest and prosperity of the said British possessions in India and of the British empire; and that no ship or vessel belonging to any of the subjects of states or countries in amity with his Majesty should be liable to seizure, confiscation, or forfeiture, or other penalty, for exporting from, or importing into, the said British possessions in India any goods or commodities, the importation or exportation of which should respectively be permitted by the said Regulation, anything in a certain Act of the twelfth year of the reign of King Charles the Second, therein recited, to the contrary notwithstanding; provided

always, that it should not be lawful for the Directors of the said United Company to frame any Regulations for the conduct of the said trade which should be inconsistent with any treaty or treaties which should have been, or might be, entered into by his Majesty, his heirs and successors, and any country or state at amity with his Majesty, or which might be inconsistent with any Act or Acts of Parliament which had been passed for the regulation of the trade and commerce of the said British territories in India;" and reciting that "by another Act passed in the fifty-third year of the reign of his said late Majesty, intituled 'An Act for continuing in the East-India Company for a further term the possession of the British territories in India, together with certain exclusive privileges for establishing further Regulations for the government of the said territories, and the better administration of justice within the same; and for regulating the trade to and from the places within the limits of the said Company's Charter,'" "all the enactments, provisions, matters, and things contained in any Act or Acts whatsoever which were limited, or might be construed to be limited, to continue for and during the term granted to the said Company by a certain Act of Parliament of Great Britain of the thirty-third year of his said late Majesty, therein recited, so far as the same or any of them were in force and not repealed by, or repugnant to, the said Act of the fifty-third year of his said late Majesty, should continue and be in force during the further term thereby granted to the said Company, subject to such alterations therein as might be made by any of the enactments, provisions, matters, and things in that Act contained;" certain rules were framed for carrying on the trade to and from the British possessions in India and the countries and states in amity with his Majesty: and whereas it has been deemed expedient that the distinction made by the last-mentioned Regulation between foreign European ships belonging to nations having settlements in the East Indies, and foreign European ships belonging to countries having no such settlements, should be removed, and that the provisions thereby made for the trade of foreign European ships belonging to nations having settlements of their own in the East Indies should be extended to foreign European ships belonging to nations having no settlements in the East Indies, and also to ships belonging to the empire of Brazil; the court of Directors of the said United Company, in virtue of the powers granted to them by the Acts hereinbefore mentioned or referred to, have rescinded the said Regulation of the 31st of December, 1817, and in lieu thereof have framed the following Regulation.

*First.* Foreign European ships belonging to any state or country, whether having a settlement of its own in the East Indies or not, and ships belonging to the empire of Brazil, so long as such states, countries, and empire respectively remain in amity with his Majesty, may freely enter the British sea-ports and harbours in the East Indies, whether they come directly from their own country or from any of the ports and places in the East Indies; they shall be hospitably received, and shall have liberty to trade there in imports and exports conformably to the Regulations established in such places; provided that it shall not be lawful for the said ships in time of war between the British Government and any state or power whatever, to export from the said British territories, without the special permission of the British Government, any military stores or naval stores, saltpetre or grain. The said ships may also be cleared out for any port or place in the East Indies, but if cleared out for Europe or for any port in the empire of Brazil, they shall be cleared out direct for the country to which such ships respectively belong.

*Second.* The trade between the British possessions in India and the United States of America shall continue to be regulated by the convention of commerce between Great Britain and the United States of America, signed at London, the 3rd July, 1815.

*Third.* Nothing in this Regulation shall be construed to affect the provisions contained in the existing Regulations for defining the duties to which the trade of foreign nations is and shall be subject at the ports and settlements of the British nation in the East Indies.—Reg. II, 1830.

152. All goods imported on foreign bottoms by sea into any port of the presidencies of Fort William in Bengal, Fort St. George, or Bombay, shall be charged only with the same rates of duty as such goods would be charged with if such goods were imported into any of the said ports on British bottoms.—Act VI, 1848, sec. i.

153. All goods exported on foreign bottoms by sea, from any port of the said presidencies, shall be charged only with the same rates of duty as such goods would be charged with if such goods were exported from any of the said ports on British bottoms, anything in any Act of the Council of India contained to the contrary notwithstanding.—Act VI, 1848, sec. ii.

154. Goods and passengers may be conveyed from one part of the territories under the Government of the East India Company to another part thereof, in other than British ships, without any restriction, other than is or shall be equally imposed on British ships, for securing payment of duties of customs or otherwise.—Act V, 1850, sec. i.

155. No duty shall be charged on any goods lawfully carried from any port in the territories subject to the Government of the East-India Company to any other port in the said territories, anything in any Act of the Council of India contained to the contrary notwithstanding.—Act VI, 1848, sec. iii.

156. The provisions of the preceding paragraph shall not apply to goods exported from any part of the territories subject to the Government of the East India Company, to any of the ports in the Straits of Malacca, or to any of the ports in the Tenasserim provinces, or to any of the ports in the province of Arracan, nor to goods imported from any of those ports into any port of the said territories.—Act VII, 1848, sec. i.

157. No drawback shall be allowed on the re-export of goods from any port in the territories subject to the Government of the East-India Company to any other port in the said territories to which the operation of paragraph 155 may extend.—Act VII, 1848, sec. ii.

158. Provided always, that nothing contained in paragraphs 152 to 155 shall apply to the articles of salt or opium.—Act VI, 1848, sec. iv.

159. The port and settlement of Aden in Arabia is a free port and settlement: and no duty of customs is payable there on any ship or other vessel, or on any goods lawfully carried by sea or land to or from the said port and settlement.—Act X, 1850, sec. i.

160. The said port of Aden shall not be taken to be within the provisions of paragraphs 152 to 155.—Act X, 1850, sec. ii.

### MILITARY STORES.

161. Arms, ammunition, and military stores (with the exception of arms in the possession of individuals for private use) shall not be exported, or otherwise taken from the territories of the East-India Company, without a license from a public officer or officers for each presidency, to be indicated by the Governments of the respective presidencies, for the purpose of granting such licenses, and a full compliance with all such rules and conditions as may be prescribed for the guidance of such officer or officers in regard to such exports by the aforesaid Governments respectively. And any arms, ammunition, or military stores which any person shall export, or attempt to export, or take as aforesaid, contrary to this Act, shall thereby become forfeited, on the award of the officer or officers authorized as aforesaid to grant licenses, or the collector of customs, and every person offending in the premises contrary to this Act shall be liable, on conviction before a magistrate, to a penalty not exceeding five hundred rupees.—Act XVIII, 1841, sec. i.

162. Any person who shall collect or keep in one place, or within places not exceeding three miles in distance from each other, any quantity of gunpowder exceeding fifty pounds, without a license from such officer as aforesaid, shall be liable, on conviction before a magistrate, to a penalty not exceeding five hundred rupees, and such gunpowder shall become forfeited on the award of the officer or officers authorized to grant licenses as aforesaid, or the collector of customs.—Act XVIII, 1841, sec. ii.

163. It shall be lawful for any of the Governments aforesaid, to allow, at any port or ports, the exportation of arms, ammunition, and military stores as aforesaid, without any such license as aforesaid, as they shall deem expedient.—Act XVIII, 1841, sec. iii.

164. Arms manufactured according to the European fashion, whether in Europe, India, or elsewhere, shall not be transported without a pass from Government beyond the limits of the Company's territories; such arms shall accordingly be liable to be confiscated whenever they may be attempted to be transported beyond those limits. Provided, however, that this rule shall not be considered to be applicable to matchlocks and other arms made according to the Indian fashion.—Reg. XI, 1807, sec. iii.

165. The transportation of cannon and of all descriptions of fire-arms or military stores, excepting on account of or under a pass from the British Government, being prohibited, the collector and all officers of the customs are required to seize all such cannon, arms, or military stores, as shall be attempted to be transported in disobedience of this prohibition. The cannon, arms, or stores, so seized, shall be liable to confiscation. This rule, however, is not to be considered as applicable to fowling-pieces, pistols, swords, or any other arms which may be in the possession of individuals evidently for private use.—Reg. IX, 1810, sec. xxxi.

### CUSTOM DUTIES IN THE NORTH-WESTERN PROVINCES.

166. Regulation XVI, 1829, Act II, 1838, and so much of Regulation IX, 1810, and of any other Regulation and Act as affects the collection of customs duties, or the manufacture of salt in the North-Western Provinces of the presidency of Bengal, shall be repealed from the 1st day of September, 1843.—Act XIV, 1843, sec. i.

167. From and after the day above mentioned, the following and no other duties of customs shall be leviable upon the import and export of articles into and from the North-Western Provinces of the presidency of Bengal, that is to say:

On the import of salt, of all descriptions, two rupees per maund, and a further duty of one rupee per maund on the transmission thereof to the eastward of Allahabad.

On the import of cotton, uncleaned, four annas per maund; cleaned, eight annas per maund.

On the export of misree, kund, chenee, and all clayed and refined sugar, eight annas per maund; goor, râb, sheerah, and all unclayed and unrefined saccharine produce, three annas per maund.—Act XIV, 1843, sec. ii.; Act XIX, 1854.

168. It shall be lawful for the Government of the said provinces from time to time to make and issue such orders as may be deemed expedient for the collection of the aforesaid duties, in such manner, and upon such line or lines, and at such places on or near such line or lines, as may seem fit, and all such orders shall have the same force as if they formed a part of this Act from the date notified in the Gazette, wherein they shall be published.—Act XIV, 1843, sec. iii.

169. All sugar imported into the said provinces, and all articles imported or exported without payment of the duties imposed by this Act, or in contravention of the orders which may be made and issued under the provisions thereof, and all boats, carriages, and conveyances, and all animals used in transporting the same, shall be liable to be seized and confiscated in the manner hereinafter mentioned.—Act XIV, 1843, sec. vi.

170. All persons evading or attempting to evade the payment of the duties imposed by this Act, and all persons aiding or abetting such attempts or evasions, or in any manner acting in contravention of this Act, or of any order made and issued under the provisions thereof, and all zemindars and other proprietors of land, or their agents, who shall wilfully connive at such attempts or evasions, or aid such acts, shall, on conviction by the magistrate within the limits of whose district the offence may have occurred, be punished by a fine not exceeding five hundred rupees, and on non-payment thereof, by imprisonment not exceeding six months, with or without hard labour. Act XIV, 1843, sec. vii.

171. It shall be lawful for all officers of the customs department to search any carriages and conveyances, and any packages, upon reasonable grounds of suspicion that such carriages, conveyances, or packages, contain any articles made subject to duty, or prohibited to be imported by this Act, and to detain all such articles as may be liable to confiscation under the provisions thereof.—Act XIV, 1843, sec. viii.

172. Whenever any articles or goods shall be seized or detained under the provisions of this Act, the collector or deputy collector of land revenue or customs within whose jurisdiction such seizure or detention shall occur, shall, with all practicable expedition, report the case for the determination of the commissioner of revenue, and it shall be lawful for such commissioner to declare such articles or goods to be confiscated, or to impose such lesser penalty in lieu thereof as to him may seem fit.—Act XIV, 1843, sec. ix.

173. It shall be lawful for all officers in the customs department to apprehend any person upon reasonable grounds of suspicion that such person is liable to punishment under this Act, and to make him over for trial, with all practicable expedition, to the magistrate within whose jurisdiction the offence may occur.—Act XIV, 1843, sec. x.

174. Provided always, that any officer of the customs department who shall, without reasonable grounds of suspicion, search any carriage or conveyance, or any package, shall, upon conviction thereof before the magistrate within whose jurisdiction the offence may have been committed, be punished with fine not exceeding two hundred and fifty rupees, which fine shall be paid over to the party aggrieved, and on non-payment of such fine, with imprisonment not exceeding three months; and provided also, that any officer of the customs department who shall, under colour of this Act, apprehend any person without reasonable grounds of suspicion that such person is liable to punishment under this Act, shall, upon conviction before the magistrate within whose jurisdiction the offence may have been committed, be punished with fine not exceeding five hundred rupees, which fine shall be paid over to the party aggrieved, and on non-payment of such fine, with imprisonment not exceeding six months.—Act XIV, 1843, sec. xi.

175. All magistrates, or persons exercising the powers of magistrate, shall be competent to receive and determine all charges against persons thus made over to them for trial on account of offences against this Act, and all sentences passed in pursuance of this Act shall be open to appeal under such rules as may from time to time be laid down for the cognizance of appeals in ordinary cases.—Act XIV, 1843, sec. xii.

176. All officers of police, and all officers of the Government engaged in the collection of the land revenue, are empowered and required to aid and assist the officers of the customs department in the execution of this Act.—Act XIV, 1843, sec. xiii.

177. Nothing in this Act contained shall apply or be deemed to apply to the Saugor and Nerbudda territories, or to the district of Ajmere.—Act XIV, 1843, sec. xiv.

IMPORTATION OF RUM.

178. If any person after the passing of this Act, lands or attempts to land, or shall introduce by land in any part of the territories subject to the Government of the presidency of Fort William in Bengal, any rum or rum shrub, which is the produce of any foreign country, or of any British possession into which foreign sugar or rum can be legally imported, such rum or rum shrub shall be seized by the collector of the customs, or by any other officer authorized to seize and detain contraband goods, and shall be brought to confiscation according to the rules in force for confiscating such goods, unless the district in which such rum or rum shrub is landed, or in which an attempt has been made to land such rum or rum shrub, be a district in which the Governor-General of India in Council has authorised the importation of such rum or rum shrub, and it shall be lawful for the Governor-General of India in Council to authorise the importation of such rum and rum shrub into any district of the territories aforesaid by an order in the official Gazette.—Act VI, 1841, sec. i.

179. If any owner of rum or rum shrub, the produce of the said territories, or the duly authorized agent of such owner, be desirous to obtain a certificate of origin from the collector or assistant-collector of the land or customs revenue of any district within the said territories, or from any other officer appointed by the Governor-General of India in Council to give such certificates, such owner or agent shall, in presence of the officer from whom he desires to obtain such certificate, make and subscribe a declaration in the form contained in the schedule hereunto annexed marked (A) and to the said declaration shall be appended a certificate to its verity from any Government officer who may be attached to the distillery where such rum or rum shrub is declared to have been manufactured, in the form prescribed in the said schedule (A).—Act VI, 1841, sec. ii.

180. If the district be one into which the Governor-General of India in Council has not, by any order, authorized the importation of foreign rum, or of rum the produce of any British possession into which foreign rum can be legally imported, then the officer before whom such a declaration as is aforesaid shall have been made, shall grant under his hand and seal to the declarant, a certificate in the form contained in the schedule hereunto annexed marked (B).—Act. VI, 1841, sec. iii.—Act XIX, 1854.

181. Every person who intends to ship rum or rum shrub from any place within the said territories for any part of the United Kingdom, shall be entitled to produce to the collector of customs at that place, or to any other officer who may have been appointed by the Governments of the respective presidencies to act on that behalf in place of the collector of customs, a certificate, such as is above described, and also, in the presence of the officer to whom he has so produced such certificate, to make and subscribe a declaration in the form contained in the schedule hereunto annexed marked (C).—Act. VI, 1841, sec. iv.

182. The officer to whom such a certificate shall have been so produced, and before whom a declaration in the last-mentioned form shall have been so made and subscribed shall, unless he see cause to deem such declaration fradulent and untrue, grant to the person who has made the last-mentioned declaration a certificate in the form contained in the schedule hereunto annexed, marked (D).—Act VI, 1841, sec. v.

183. The owner of rum or rum shrub intended for exportation under this Act, or the duly authorized agent of such owner, shall not be entitled to any of the certificates described in this Act unless such rum or rum shrub shall be the produce of a distillery worked according to law in the European method, under license from the board or other authority vested with the management of the revenue derived from the abkarry or tax on spirits.—Act VI, 1841, sec. vi.

184. The rum and rum shrub manufactured for exportation to the United Kingdom under this Act, at any licensed distillery, shall be manufactured pure without admixture of spirits made from rice, grains, or any other substance or substances not being the produce of the sugar cane, or of the date or palm tree, and shall be so declared and verified at the time of application for a certificate of origin according to the form of Schedule (A).—Act VI, 1841, sec. vii.

185. If any rum or rum shrub that may be brought to any custom-house for exportation under this Act shall be found to be adulterated or mixed contrary to the above prohibition, the same, with the casks or materials in which it is contained, shall be seized and confiscated, and the party or parties upon whose declaration certificate of manufacture free from adulteration or mixture may have been granted for the admission of such rum or rum shrub to the privilege of exportation under this Act, as well as the party or parties who may have verified such declaration, shall be proceeded against for the false and fraudulent declaration as hereinunder prescribed.—Act VI, 1841, sec. viii.

186. Any person who shall, in making any declaration under the authority of this Act, knowingly affirm an untruth, shall, on conviction thereof before such court as would be competent to try such person for perjury, be punished as in cases of perjury; and every person procuring another person to affirm such untruth shall be liable to be punished as in cases of subornation of perjury,

and any officer of Government subscribing an attestation to the verity of such declaration, knowing the same to be untrue, shall be subject to a like penalty as the false declarant, besides dismissal from the employment of Government.—Act VI, 1841, sec. ix.

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187. SCHEDULES.

SCHEDULE (A).

I, A. B., solemnly declare that all the rum or rum shrub hereinunder described is the produce of the licensed distillery, named , in the district of , and that the said rum or rum shrub is the produce of the sugar cane, date, or palm-tree, and wholly free from any admixture of spirits manufactured from rice, grains, or any other substance whatever,

(Signed) A. B.

The day of 18 .

* I, B. B., Government officer in charge on the part of Government of the distillery, do hereby certify that the above is a true and correct declaration.*

B. B.,
Govt. officer attached to the distillery.

DESCRIPTION of the to which the above declaration relates.

| Quantity in Gallons. | Quality. | Average Strength by Sykes's Hydrometer. | Number and Denomination of Packages. | Marks on Packages. |
|---|---|---|---|---|
| | | | | |

(Signed) A. B.

The day of , 18 .
Collector's number
Collector's date of 18

(Signed) Y. Z., Collector.

Seal of the Collector

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SCHEDULE (B).

I, C. D., collector of land revenue (or collector of custom revenue, or being an officer appointed by the Governor-General of India in Council to act in this behalf) for the district of do hereby in conformity with the provisions of Act grant this certificate under my hand and seal, that the rum or rum shrub described in the declaration hereunto annexed, which is sealed with the seal of this office, numbered of , 18 , dated the of , 18 , and signed by , manager or owner of the licensed distillery called , is the produce of the district of and is declared to be free from any admixture of spirits manufactured from other substance than the sugar cane, date, or palm-tree, and that the importation of foreign rum, and of rum the produce of any British possessions into which foreign sugar and sum can be legally imported, is prohibited in the said district of

(L.S.)

This day of , 18 . (Signed) C. D.

* This declaration must be drawn out before the rum leaves the distillery, in order that the attestation of the Government officer may be attached

## SCHEDULE (C).

I, E. F., shipper of the rum or rum shrub hereinunder described, solemnly declare, that all the rum or rum shrub hereinunder described is, to the best of my knowledge and belief, the same rum or rum shrub to which the certificate now produced by me relates.

(Signed) E. F

DESCRIPTION of to which this declaration relates.

| Quantity in Gallons. | Quality. | Average Strength by Sykes's Hydrometer. | Number and Denomination of Packages. | Name of Ship or Vessel. | Name of Master of Ship or Vessel. |
|---|---|---|---|---|---|
| | | | | | |

(Signed) E. F.

The day of , 18 .

## SCHEDULE (D).

I, R. W., collector of customs (or being an officer appointed by the Governor-General of India in Council to act in this behalf) for the port of , certify under my hand and seal, that there has been produced to me by E. F., the shipper of the rum or rum shrub hereinunder described, a certificate under the hand and seal of C. D., collector of land revenue (or collector of custom-revenue, or being an officer appointed by the Governor-General of India in Council to act in his behalf) for the district of , in the territories forming part of the presidency of Fort William or Agra, which certificate certifies that the said rum or rum shrub is of the produce of the said district, and is declared to be free from any admixture of spirits manufactured from other substance than the sugar-cane, date, or palm-tree, and that the importation of foreign rum, or rum the produce of any British possession into which foreign rum can be legally imported, is prohibited in the said district.

(L.S.)

(Signed) R.W.,
Collector of Customs.

The day of , 18

DESCRIPTION of the to which the Certificate relates.

| Quantity in Gallons. | Quality. | Average Strength by Sykes's Hydrometer. | Number and Denomination of Packages. | Name of Ship or Vessel. | Name of Master of Ship or Vessel. |
|---|---|---|---|---|---|
| | | | | | |

(Signed) R. W.,
Collector of Customs.

—Appended to Act VI, 1841.

WAREHOUSING PORTS.

188. It shall be lawful for the Governor, or Governor in Council of any presidency, to declare any port within the territories of such presidency a warehousing port.—Act XXV, 1836, sec. i.

189. It shall be lawful for any person who imports goods into any such warehousing port to lodge such goods in any public warehouse, or in any private warehouse, licensed in the manner hereinafter described.—Act XXV, 1836, sec. ii.

190. Applications shall be made for the admission of such goods into such warehouses as aforesaid in the Form (A.) attached to this Act, and the said form shall be signed by the importer, owner, or consignee; and no goods shall be lodged in any such warehouse until they shall have been assessed for customs duty, according to the rules in force at the place of importation: and the keeper of every such warehouse shall be answerable for the weight or gauge reported by the custom-house officers who shall have assessed the said goods, deducting the wastage hereinafter allowed.—Act XXV, 1836, sec. iii.

191. When goods shall be passed by tale or by package, every omission or misdescription, tending to injure the revenue, shall be an offence punishable with fine, not exceeding ten times the greatest amount of duty which could have been lost to the Government in consequence of such omission or misdescription; and if goods shall have been overstated in quantity or value, the error may be rectified prior to the lodging of the said goods in such warehouse as aforesaid, but not after the said goods have been so lodged.—Act XXV, 1836, sec. iv.

192. No packages of goods shall be admitted into any public or licensed warehouse unless numbered and marked, in plain and legible characters, with the initials of the owner, importer, or consignee, and with a description of goods contained therein.—Act XXV, 1836, sec. v.

193. Upon goods warehoused under the provisions of this Act, when the import duty chargeable shall exceed the sum of one hundred rupees, the importer or consignee shall be allowed to execute a bond for the amount of duty chargeable in the form hereunto annexed, marked (B.); and when such bond shall have been executed, the goods shall be allowed to remain in warehouse for a period not exceeding fifteen months, without being liable to the demand of import duty thereon. And the bond to be taken under this rule shall be for twice the amount of import duty assessed on the goods, and shall stipulate for interest, to be payable from the date of the demand of any sum due on account of the goods, at such rate, not exceeding six per cent., as shall be fixed by the Board or other controlling authority of customs; and the party executing the same shall be bound thereby for the payment of all duties and charges that shall be claimable on account of the goods, and of any penalties that may be incurred for violation of the custom laws in respect to the same.—Act XXV, 1836, sec. vi.

194. Provided always, that if any owner, importer, or consignee shall omit to pay any duty or penalty that may fall due on account of goods warehoused under this Act, it shall be lawful for the collector of customs, at his option, either to proceed upon the bond, or to cause such portion of the goods warehoused on account of which the duty or penalty may be demanded, as to him may seem fit, to be detained, in satisfaction thereof; and if the demand be not discharged within ten days from the date of such detention (due notice thereof being given to the importer, owner, or consignee), the goods so detained shall be liable to be sold in satisfaction of the demand; and the proceeds of any sale so made of goods detained shall be written off upon the bond in discharge thereof to the amount received, less the charges of the sale; and if there be any surplus obtained from such sale beyond the amount demanded, such surplus shall be paid over to the owner or consignee of the goods; and no transfer or assignment of the goods shall prevent the collector from proceeding against the goods, in the manner above provided, for any demand of customs duties or penalty claimed thereon.—Act XXV, 1836, sec. vii.

195. Provided, that if at the end of fifteen months the owner or consignee of goods shall desire to keep them in warehouse for a further period, the Board or other controlling authority of customs shall be competent to permit him so to keep them for a like further period, not exceeding fifteen months, on the bonds being renewed, by the parties applying for the same.—Act XXV, 1836, sec. viii.

196. When a vessel, after having cleared from the port, shall return, and the owners, agents, or shippers of the cargo of such vessel, or any part thereof, shall desire to land the same for re-export, such goods shall be admitted to warehouse, and being so declared and registered, re-export may be made thereof under the previous settlement for duty, and no bond shall be taken on account of duties for such relanded goods, unless the goods should be liable to duty on being passed through the custom-house for importation.—Act XXV, 1836, sec. ix; Act VI, 1848, sec. ii.

197. Upon the re-exportation by sea of goods imported and warehoused under bond for the duty, as provided in this Act, within the period during which such goods are by this Act permitted to continue in warehouse, and upon payment of all reserved duty which may be due on account

of such goods, and of any charges or penalties that have been incurred on account of the goods the bond executed at the time of lodging the goods in warehouse shall be deemed to have been discharged and be cancelled accordingly.—Act XXV, 1836, sec. x.

198. If any goods lodged in warehouse, in the manner aforesaid, shall be removed or taken from the warehouse otherwise than for exportation by sea, or if the goods be not cleared from the warehouse and exported at the expiration of the time during which such goods are permitted by this Act to remain in warehouse, the collector of customs shall demand the full amount of import duty chargeable thereon, and any charges or penalties that may have been incurred. And if the amount so claimed be not paid within ten days from the date of the demand, the collector of customs shall be entitled to realize the same either by putting the bond in suit, or, at his option, by causing the goods, or any sufficient portion thereof, to be sold in satisfaction of the demand.—Act XXV, 1836, sec. xi.

199. Whenever any goods warehoused and bonded as aforesaid shall be removed from any public or licensed warehouse, the collector of customs shall cause such removal to be noted on the back of the bond; and every note so made shall specify the quantity and description of goods removed, the purposes for which they have been removed, the date of removal, and the name of the person removing them, and the number and date of the export pass under which they have been taken away, if removed for exportation by sea; and of the import pass or order, if removed for importation, and the amount of duty paid.—Act XXV, 1836, sec. xii.

200. A register shall be kept of all bonds entered into for customs duties on goods warehoused as aforesaid, and entry shall be made in the said register of all particulars prescribed in the preceding paragraph as to be noted on the bond; and when the register shall show that the entire quantity of the goods covered by any bond has been withdrawn from warehouse, either through importation and the payment of duties, or through re-exportation by sea and payment of the reserved duties upon such re-export, it shall then be competent to, and be the duty of, the collector of customs to cancel the bond as discharged in full, and to deliver it so cancelled to the parties who shall have executed, or who shall be authorized to receive the same.—Act XXV, 1836, sec. xiii.

201. The warehouses of the custom-house, together with such other buildings as shall be directed by the Governor in Council, or Governor of the presidency or settlement, shall be public warehouses for the reception of the goods under the provisions of this Act. And every public warehouse shall be under the lock and key of the person whom the Governor, or Governor in Council of the presidency, shall appoint to be keeper of such warehouse; and such keeper shall be responsible for all duties connected with the charge of goods, their reception into, and delivery from, the warehouses.—Act XXV, 1836, sec. xiv.

202. The Board or other controlling authority of customs shall determine what goods shall be admitted into every public warehouse, in what manner, and on what terms; and shall, from time to time, fix rates of hire for every public warehouse, or for the custody of goods therein, and a table of the rates so fixed shall be placed in a conspicuous part of every such warehouse.—Act XXV, 1836, sec. xv.

203. The owners or consignees of goods lodged in a public or licensed warehouse under this Act, or their agents, shall have access to their goods at any time, within the hours of business, in the presence of a custom-house officer, who shall be deputed to accompany them, upon their making application in writing to the collector of customs, or to the warehouse-keeper for the purpose.—Act XXV, 1836, sec. xvi.

204. The expenses of carriage, packing, and stowage of goods, on their reception into or removal from a warehouse, shall, if paid by the collector or warehouse-keeper, be chargeable on the goods, and be defrayed by the owners or consignees, in like manner as the customs duties before the goods are removed. And if the goods be lodged in a public warehouse, the owners or consignees shall further pay monthly the rent and warehouse dues on receiving a bill or written demand from the collector or warehouse-keeper for the same; and if the bill for rent or warehouse dues be not discharged within ten days from the date of presentation, the collector of customs shall have power (any private transfer or assignment of the goods notwithstanding) to cause to be sold by public auction such sufficient portion of the goods as he may select in liquidation of his demand. And the owners and consignees of goods shall not be entitled to claim from the collector of customs, or warehouse-keeper, any compensation for any loss that may occur while the goods are passed into or out of the warehouse, or while they remain therein, unless such loss or injury shall be proved to have been occasioned by the wilful act or neglect of the warehouse-keeper or his officers, or of the officers of the customs.—Act XXV, 1836, sec. xvii.

205. Allowance shall be made for the wastage of goods deposited in warehouses according to the following table, as the rate of wastage for one year, and the import duty shall be settled on the quantities registered at the time of importation, wastage at these rates notwithstanding:

206. TABLE of WASTAGE to be allowed upon Goods when applied to be removed, either from Public or Private Licensed Warehouses.

| Description of Goods. | | Rate of Wastage. | Description of Goods. | | Rate of Wastage. |
|---|---|---|---|---|---|
| | | Per cent. | | | Per cent. |
| Alkali | | 5 | Lac, lake stick and seed | | 3 |
| Alums | | 3 | Long pepper and long pepper root | | 3 |
| Aromatic seeds | Anise | 3 | Oils, essential and fragrant | | 8 |
| | Coriander | 3 | Resin, or dammer | | 7½ |
| | Cummin | 3 | Sago | | 4 |
| | Calferah | 3 | Sugar | | 4 |
| | Cardamums | 3 | Saltpetre | | 4 |
| | Jowain | 3 | Soap | | 3 |
| Beetlenut | | 7½ | Silk | | 5 |
| Brimstone | | 3 | Spices | Cloves | 8 |
| Camphor | | 2 | | Cinnamon | 2 |
| Coffee | | 5 | | Cassia | 2 |
| Copperas, or green vitriol | | 5 | | Mace | 3 |
| Cotton wool | | 2 | | Pepper | 6 |
| Dry ginger | | 10 | | Pimento, or allspice | 2 |
| Gums and drugs, not otherwise specified | | 3 | Tobacco, unprepared | | 5 |
| Iron wrought bars | | 3 | Turpentine | | 8 |
| Indigo | | 5 | Tutenague | | 2 |
| Kutch, or terra japonica | | 3 | | | |

207. The import duty on wine and spirits in casks shall be settled on the quantities registered at the time of importation, without any deduction whatsoever: provided always, that the keeper of every warehouse shall, in accounting with the customs department for the article so warehoused, be allowed ullage on such wine and spirits at the rate of ten per cent. for one year, according to the time for which such wine and spirits shall have been lodged.—Act XXV, 1836, sec. xviii.; Act XIII, 1841.

208. The Board or other controlling authority of customs shall have power to license warehouses belonging to private persons for the reception of goods with duty bonded under the rules of this Act, in like manner as prescribed for public warehouses; and every license so granted to a private warehouse shall be liable to be revoked at pleasure by the Board or other controlling authority of customs, unless otherwise specifically stipulated in the license.—Act XXV, 1836, sec. xix.

209. Applications for licenses for private warehouses shall be drawn up in the form marked (C.) annexed to this Act, and shall specify the particulars therein stated, and the situation of the warehouses, and their distances respectively from the custom-house in English yards.—Act XXV, 1836, sec. xx.

210. The collector of customs, or other warehouse-keeper, shall have access for himself, or for any officer he may depute for the purpose, to any private warehouse licensed as above. And if the proprietor thereof shall not open the same when required, or shall refuse to admit the collector or warehouse-keeper, or the officer of either, upon demand made at any time within the hours of business at the port, the proprietor of the warehouse shall be liable to a fine not exceeding one thousand rupees, and further to have the license of the warehouse cancelled and withdrawn, and all bonds executed for duty chargeable upon goods therein deposited shall become due and be put in suit for the levy of the duty and other demands of customs, after seven days shall have passed from the date when the collector of customs or warehouse-keeper shall give notice of any license being withdrawn.—Act XXV, 1836, sec. xxi.

211. If goods lodged in a private warehouse shall be found to be deficient at the time of delivery therefrom beyond the allowance for wastage prescribed in the table in paragraph 205, the owner or consignee, or other party who may have lodged the goods in the warehouse, shall, unless the deficiency be accounted for to the satisfaction of the collector of customs, forfeit to Government a sum to equal to ten times the duty chargeable on the quantity of goods deficient; and if goods be found to exceed the registered quantity, such excess, unless similarly accounted for, shall be charged with ten times the ordinary duty thereon; and when any penalty shall be incurred under this rule, the goods shall not be removed until the same is paid.—Act XXV, 1836, sec. xxii.

212. The collector of customs shall have authority at any time to issue his warrant or written order, and to cause any goods or packages lodged in a public or private warehouse to be opened and weighed, or otherwise examined as he may direct. And after goods shall have been so opened or examined, he shall cause the same to be sealed or marked in such manner as to him may seem fit; and when goods shall have been so sealed or marked (after examination), they shall not be again

opened without permission from the Board, or other controlling authority of customs, except when the proprietor or consignee shall apply to have them opened, and in every such case the packages shall be again sealed or marked as before.—Act XXV, 1836, sec. xxiii.

213. When goods shall be received into warehouse, or shall be removed therefrom, the packages shall be stamped with a conspicuous seal or stamp, containing the words—"Warehoused and Duty Bonded," or, "Delivered for Exportation, or "Removed for Importation," accordingly as the goods may be received or removed for one or other purpose; and any person who shall remove or efface a stamp or seal affixed by an officer of customs, or who shall change the outer cover of any package so marked, or change the contents thereof while goods are in warehouse, without giving notice and obtaining permission of the collector of customs, shall for every such offence forfeit the sum of five hundred rupees upon conviction before a magistrate or justice of the peace of the place. Provided, however, that the owners and consignees of goods shall be at liberty to take out samples of their goods of such limited quantity as shall be deemed by the collector of customs reasonable and proper.—Act XXV, 1836, sec. xxiv.

214. No goods shall be removed from any warehouse except under application to the collector of customs for the goods to be passed for export or for importation, in like manner as for other goods passed through the custom-house, or for removal to another warehouse, as prescribed in paragraph 217.—Act XXV, 1836, sec. xxv.

215. If any owner or consignee of goods shall in any way break a package for removal of any part of the goods, the entire duty shall be levied for all the goods contained therein.—Act XXV, 1836, sec. xxvi.

216. Applications to remove goods from warehouse shall be made in the form marked (D.) hereunto annexed, and twenty-four hours' notice shall ordinarily be given to the collector of customs or warehouse-keeper of the intention to remove goods.—Act XXV, 1836, sec. xxvii.

217. Owners or consignees of goods warehoused and bonded for duty under this Act may remove the same from one public or licensed warehouse to any other: and when they shall desire so to remove goods, they shall make application in the form marked (E.) hereunto annexed, furnishing the information specified, and filling up the columns left blank in the said form, with all the particulars therein contained.—Act XXV, 1836, sec. xxviii.

218. If goods warehoused and bonded for duty shall be destroyed by fire or other accident, no duty shall be chargeable thereon, provided that if they be destroyed in a private warehouse, notice thereof be given to the collector of customs or warehouse-keeper within forty-eight hours of the discovery of the accident; and if goods, when lodged in warehouse, shall receive damage, they shall be assessed for duty according to their actual value, and bond for the same executed for the unexpired term of warehousing.—Act XXV, 1836, sec. xxix.

219. Whenever any person shall be charged with having committed any act or neglect for which he is liable to penalty under this Act, the collector of customs at the port shall be competent to investigate the case, and to adjudge the penalty or to dismiss the complaint, as to him may seem fit: provided, however, that if the collector shall adjudge any penalty to be incurred, such judgment shall not be conclusive until the case shall have been reported to the Board or other superior authority of customs, and the award shall have been confirmed by that authority. And it is further enacted, that the Board or other controlling authority of customs shall have the power of mitigating any penalty that may be incurred on account of warehoused goods, to the extent of reducing the same to a levy of double duty.—Act XXV, 1836, sec. xxx.

220. FORMS.

(A.)

FORM of Application for the Reception of Goods imported by Sea in Warehouses

To the Collector of Sea Customs at Calcutta.

Sir,

Please to order the reception into the Government [or private warehouse of Mr A. B. situate at , and licensed by No. , dated ], of the undermentioned goods, being of the growth or manufacture of [place to be stated], and arrived from [port or place to be mentioned], on the [British or other] ship , whereof is commander, the duty upon which goods has been adjusted in the manner hereafter specified.

| Marks and Number of Packages. | Description of Packages and Goods. | Contents of Goods. | Rate of Value of the Goods. | Amount Value of the Goods, as ascertained and entered on the landing of the same. | Rate of Duty, both of Customs and Town Duty. | Date and Number of Importation. | Specification of the Particulars of Bonds, if the Duty upon the Goods has been bonded. |
|---|---|---|---|---|---|---|---|
| | | | | | | | |
| Total ..... | | | | | | | |

[Date] (Signed) [By the owner, agent, or consignee of the goods.]

(B)

FORM of Bond for Import Duty.

Know all men by these presents, that we , now of Calcutta, at Fort William, in the province of Bengal, in the East Indies, and , of the same place, are jointly and severally held and firmly bound unto the East-India Company in the sum of rs. , to be paid to the said East-India Company, or their certain attorney, agent, successors, or assigns, for which payment, well and truly to be made, we jointly and severally bind ourselves and each of us, and our respective heirs, executors, administrators, and representatives, by these presents; sealed with our respective seals, dated the day of in the year of Christ ; and the said for themselves and each of them, and their respective heirs and representatives, covenant and agree that, in case of dispute touching the matter of this obligation, or the condition thereof, the same may be heard and determined in the Supreme Court of Judicature at .

Whereas the above bounden hath [or have] applied to the collector of sea customs of the said East-India Company at for and have obtained permission to lodge in a certain public [or licensed] godown for a period of fifteen months, subject to the rules or Regulations of Government, the following goods: that is to say [here a large blank should be left for describing the goods], being of the growth or manufacture of , and imported by sea from on board the ship , and entered in the custom-house books as No. of the register of goods imported by sea.

Now the condition of this obligation is such, that, if the above bounden [the principal] his or their heirs, executors, administrators, representatives, or assigns, shall in all things well and truly observe and keep all and singular the rules prescribed in Act No. XXV, of 1836, to be observed and kept by the owners, importers, or consignees of goods bonded and warehoused, and by the persons obtaining permission to bond and warehouse goods under the provisions thereof; and if the said [the principal] his [or their, if more than one] heirs, executors, administrators, representatives, or assigns, do and shall well and truly pay or cause to be paid to the collector of customs for the time being for the port, of all such dues, whether of customs or of lawful charges, as shall be due or demandable upon the said goods, or on account of penalties incurred in respect to them, at or before the expiration of fifteen months from the date of these presents, or before, or at the expiration of such further time as the Board of Revenue shall allow in that behalf, together with interest thereon, at the rate of per cent per annum from the date of demand thereof being made by the said collector of customs in writing; and further, if the said goods, after being so warehoused, or any part thereof, shall not, within the term so fixed or to be enlarged, be removed from the said public [or licensed] godowns, or in case the said goods, or any part thereof, shall be removed from the said public [or licensed] warehouse at any time within the said term, either for importation or for exportation by sea; then and in such case, if the full amount of all such duties, charges, and penalties as may be payable or demandable as aforesaid, shall have been first paid and satisfied on the whole quantity of the said goods, then this obligation to be void and of no effect; otherwise, and on breach or failure in the performance of the said several conditions, or any of them the same to be in full force and virtue.

Sealed and delivered, &c.

(C.)

FORM of Application to obtain License for Private Warehouses.

To the Collector of Customs at Calcutta.

Sir,

Please to submit to the Board of Revenue [or other controlling authority of customs] my request to be furnished with a license, under Act No. XXV of 1836, for a warehouse, situate at , and about the distance of yards from the custom-house; the dimensions and other particulars of the godown are stated below, and the same is intended for the reception of all goods as a general storehouse [or as the case may be], the period of license not to exceed [mention the time for which period].

Particulars of Godown.

| | |
|---|---|
| Length, feet, inches<br>Breadth, ditto, ditto<br>Height, ditto, ditto | Dry, airy, well-flued, and puckah built; can contain with perfect safety and convenience about tons of goods. |

The same being my own property [or the property of , from whom I have engaged the same on a lease of ]

(Signed) [By the Applicant]

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(D.)

FORM of Application for Removal of Goods from Warehouses.

To the Collector of Government Customs.

Sir,

Please to order to be passed from the Government [or private] warehouse [of Messrs. A. & Co. situate at , and licensed under Act No. XXV, of 1836, by No. , dated ] the under-mentioned goods intended for exportation by sea, on the British ship , Captain , bound to , [or for internal consumption, or to be consigned to any station in the interior, as the case may be], the same having been entered in the books of your office for the said warehouse, under No. , dated , by me [or by Messrs. B. & Co. whose certificate of the transfer of the goods is herewith annexed].

| | |
|---|---|
| Marks and Numbers of Cases.<br>B. & Co.<br>[Name of the Goods.]<br>No. 1 to 4.<br>□ × ✓<br>Sealed.<br>"Warehoused for Exportation." | 4 Cases of [name of Goods.]<br>1 Case [Box, Bale, or Parcel], containing [here insert the quantity in each case].<br>1 Ditto.<br>1 Ditto.<br>1 Ditto.<br>4 Cases [Boxes, Bales, or Parcels], containing [total contents to be here stated.] |

Custom-house value of the above, rupees , and please to receive the amount of duty bonded for the said goods, by bond No. , dated , allowing drawback for exportation on British bottom [or as the case may be],

(Signed) [Either by the owner, agent, or consignee of the goods.]

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(E).

FORM of Application for the Removal of Goods from one Warehouse to another during the Period for which the Indulgence of Warehousing may have been obtained.

To the Collector of Government Customs at Calcutta.

Sir,

Please to permit the removal of the undermentioned goods from the Government [or other licensed] warehouse to [the warehouse into which the removal is intended to be made must here be distinctly described], for the unexpired period of warehousing due on the goods, the same having been originally entered by virtue of Act No. XXV. of 1836, in the books of the warehouse department, under No. dated for fifteen months [or such other period as may have been allowed, to be here stated], under all the obligations and conditions at present attached to the goods.

| Marks and Numbers of Packages. | Description of Packages and of Goods. | Contents of Packages. | Rate of Value of Goods. | Amount of Value of Goods as entered in Custom-House Books. | Rate of Duty chargeable or paid upon the Goods. | Name of the Persons by whom Goods first passed into Warehouses. |
|---|---|---|---|---|---|---|
| | | | | | | |

NOTE.—If the goods to be removed shall have been sold or transferred by the original proprietor or agent, a certificate of such sale or transfer shall accompany the application.

(Signed) [By the owner, agent, or consignee of the goods.]

—Appended to Act XXV, 1836.

DUTIES ON DHONIES IN THE HOOGHLY.

221. The duty heretofore levied on dhonies piloted into the river Hooghly by natives, not in the service of Government, is hereby abolished; and every dhony exporting from the river Hooghly without taking a pilot in the service of Government, shall pay, as a consideration for the benefit derived from the Company's buoys, a duty at the rate of one rupee for every hundred maunds of the burthen of the vessel; with this exception, that a dhony of a burthen which shall exceed six thousand maunds shall pay only sixty rupees, this being the highest duty to which any dhony shall be subject whatever may be her burthen.—Reg. VII, 1801, sec. ii.

222. The duty shall be collected by the marine paymaster. Upon any dhony being about to sail, the master of the vessel shall make application to the master attendant for a certificate of the amount of the duty payable on account of the vessel, which certificate the master attendant is required to grant in the following form:

"This is to certify, that the duty payable on the dhony , No. , of the burthen of maunds, master, in pursuance of section II, Regulation VII, 1801, is rupees .

Calcutta, "A. B.
this day of " Master Attendant,
180-

"To C. D. Marine Paymaster."

The certificate must be delivered to the marine paymaster; who, upon the duty being paid, is required to furnish the master of the dhony with a certificate in the following form:

"This is to certify, that the duty on the dhony , No. , master, has this day been paid.

"The of
180- "C. D.
" Marine Paymaster.

"To E. F. Collector of the Government Customs at Calcutta."

This certificate shall be delivered to the collector of the Government customs; and until the certificate shall have been so delivered, the collector shall not grant a port clearance for the dhony. —Reg. VII, 1801, sec. iii.

223. Should any dhony depart, or attempt to depart, without paying the duty, the master attendant shall stop the dhony, and shall report the circumstances of the case to the Marine Board; which board, upon being satisfied that there was an intention on the part of the master of the dhony to evade the payment of the duty, shall direct double duty to be levied on the dhony; and until such double duty shall be paid, the dhony shall not be permitted to depart from the port. The additional duty shall be carried to the account of the pension fund of the pilots.—Reg. VII, 1801, sec. iv.

224. All dhonies trading to or from the port of Calcutta shall be numbered, and the master attendant shall cause the numbers to be painted on the sterns of the vessels.—Reg. VII, 1801, sec. v.

225. A register shall be kept at the office of the master attendant of all dhonies trading to or from the port of Calcutta, in the following form:

*Register of Dhonies trading to or from the Port of Calcutta.*

| Names. | Nos. | Burthen in Maunds. | Names of the Masters or Serangs. | To what Port the Dhonies belong. |
|---|---|---|---|---|
| | | | | |

—Reg. VII, 1801, sec. vi.

226. Whereas the Governor-General in Council has been pleased, by an Order in Council, dated the 16th July, 1801, and published in the Calcutta Gazette, to direct that a magazine be erected at Atchepore, for the reception of the gunpowder of ships entering or lying in the river Hooghly, it is hereby enacted, for the purpose of defraying the expense of the erection of the said magazine, and of the establishment of officers to be attached thereto, that every vessel importing at the port of Calcutta, and every vessel exporting therefrom (dhonies and Her Majesty's ships excepted), shall pay a duty of one anna per ton for every ton of the tonnage of the vessel, to be calculated according to its measurement. The duty shall be collected by the marine paymaster when he levies the money for the pilotage of the vessels.—Reg. VII, 1801, sec. vii, cl. 1.

227. In case the commander or owner of any vessel shall refuse to pay the duty established in the preceding paragraph, the collector of the Government customs shall not grant a port clearance to such vessel until the amount of the duty shall have been discharged.—Reg. VII, 1801, sec. vii, cl. 2.

See *ante*, paragraphs 100 and 136.

REGISTRY OF SHIPS.

228. Whereas by a statute passed in the third and fourth years of her Majesty Queen Victoria, entitled "An Act to regulate the Trade of Ships built and trading within the Limits of the East India Company's Charter," it is enacted, "that it shall be lawful for the Governor-General of India in Council, by proclamation, to declare that all ships or vessels built or to be built within the limits of the Charter of the East-India Company, being owned by her Majesty's subjects for whom the said Governor-General in Council has power to legislate, and belonging, under the Regulations hereinafter provided for, to any ports in the territories under the Government of the said Company, shall be deemed to be British ships for all the purposes of trade within the said limits, including the Cape of Good Hope, and the territories and dependencies thereof; provided that upon such declaration being made, the said Governor-General in Council shall, and the said Governor-General in Council is hereby accordingly empowered to make Regulations, to be enforced by suitable penalties, concerning the registering, licensing, and ascertaining the admeasurement of the tonnage and burden, and generally for the trading within the limits aforesaid of such ships or vessels." And whereas it is further enacted in the same statute as follows, that is to say, "And whereas it may be expedient to admit to similar privileges and advantages any ships or vessels belonging to native princes or states in subordinate alliance with, or having subsidiary treaties with the East-India Company, or owned by subjects of any such princes or states, be it therefore enacted, that the Governor-General of India in Council may by such Regulations as aforesaid, such Regulations being subject as aforesaid, admit to the privileges and advantages of British ships for the purposes of trade within the limits of the Charter of the said Company, including the Cape of Good Hope, and the territories and dependencies thereof, or to any of such privileges and advantages, any ships or vessels belonging to such princes or states, or any of them, or owned by subjects of any such princes or states; but any such Regulations shall provide for the granting to such ships or vessels fit and convenient licenses or passes, and generally for the trading within the limits aforesaid of such ships or vessels." And whereas, in pursuance of such enactments, it is expedient to frame such Regulations as are mentioned therein, the compliance with

which shall be required in order that ships or vessels may be deemed British ships, or be admitted to the privileges and advantages of British ships under such proclamation as aforesaid;

It is hereby enacted, that no ship or vessel shall be deemed a British ship under such proclamation as aforesaid (except as regards ships or vessels registered before the passing of this Act, or having a pass at the time of passing thereof) unless the person or persons claiming property therein shall have caused the same to have been registered at some one of the ports hereinafter mentioned within the territories of the East-India Company, and shall have obtained a certificate of such registry from the person or persons authorized to make such registry and grant such certificate as hereinafter directed; the form of which certificate shall be as follows:

"This is to certify, that in pursuance of the Act No. X. of 1841, of the Governor-General of India in Council (here insert the names and occupation and residence of subscribing owners), having made and subscribed the declaration required by the said Act and having declared that (he or they) together with (names, occupations, and residence of non-subscribing owners) (is or are) sole owner or owners, in the proportions specified on the back hereof, of the ship or vessel called the (ship's name), of (place at which the vessel shall be registered), which is of the burthen of (number of tons), and whereof (master's name) is master, and that the said ship or vessel was (when and where built), and (name and employment of surveying officer) having certified to us that the said ship or vessel has (number) decks and (number) masts, that (here insert the measurement as ascertained by the rules hereinafter mentioned), that she is (how rigged) rigged with a (standing or running) bowsprit, is (description of stern) sterned, (carvel or clincher) built, has (whether any or no) gallery, and (kind of head, if any) head: and the said subscribing owners having consented and agreed to the above description, the said ship or vessel called the (name) has been duly registered at the port of (name of port).

"Certified under our hands at the Custom-house, in the said port of (name of port), this (date) day of (name of month), in the year (words at length).

"(Signed) , Collector or Registrar of Shipping."

And on the back of such certificate of registry, there shall be an account of the parts or shares held by each of the owners mentioned and described in such certificate in the form and manner following:

| Names of several Owners within mentioned. | Number of shares held by each Owner. |
|---|---|
| Name .. .. .. .. .. .. | Thirty-two. |
| Name .. .. .. .. .. .. | Sixteen. |
| Name .. .. .. .. .. .. | Eight. |

"&c. &c.

(Signed) , Collector.

—Act X, 1841, sec. i.

229. The ports at which registration shall be made, shall be the ports of Calcutta, Madras, Bombay, Singapore, and such other places subordinate to the local Governments of India, as such Governments respectively may, from time to time, declare to be registering ports under this Act. Provided that ships or vessels built at any place other than any of such ports shall be allowed to make their first voyage to any of such ports, being the ports at which it is intended they shall be registered under a certificate to be granted by the principal British officer at the place where the ship is built, or if there be no British officer in authority there, then by three merchants of such place, which certificate shall contain all the particulars with regard to the ownership and description of the ships or vessels contained in a certificate of registry, and shall specify the ports at which it is intended that they shall respectively be registered, and which certificate shall have all the effect of a certificate of registry under this Act, during the first voyage from the place of building to the ports at which the ships or vessels respectively shall be afterwards registered. Provided that such ships or vessels so proceeding on their first voyage as aforesaid shall be deemed British ships only whilst duly prosecuting such first voyage for the purpose of registry, and if they be not registered within a reasonable time after their arrival at the port of registry, the owner or owners, or master or other person having or taking the command or charge of such ship or vessel, shall be liable, on information in any court of her Majesty or the East-India Company by the advocates-general of the respective presidencies, to a penalty not exceeding five thousand rupees.—Act X, 1841, sec. ii.

230. The persons authorised to make such registry, and to grant such certificates as aforesaid, shall be the persons now authorised to make registry of ships or vessels under the Statute 3 & 4

Wm. IV. chap. 55, and such other or different persons as the local Governments may, from time to time, appoint for the ports under their respective presidencies.—Act X, 1841, sec. iii.

231. At every port where registry shall be made in pursuance of this Act a book shall be kept by the registering officer, in which all the particulars contained in the form of the certificate of the registry hereinbefore directed to be used shall be duly entered; and every registry shall be numbered in progression, beginning such progressive numeration at the commencement of each and every year. And such registering officer shall forthwith, or within one month at the furthest, send to the Government of the presidency to which he is subordinate a true and exact copy, together with the number of every certificate which shall be by him so granted.—Act X, 1841, sec. iv.

232. No registry shall henceforth be made or certificate be granted, until the following declaration be made or subscribed before the registering officer, by the owner or major part of the owners of the ship or vessel required to be registered.

I, A. B. of (place of residence and occupation) do truly declare that the ship or vessel (name) of (port or place) whereof (master's name) is at present master, being (kind of build, burthen, et cetera, as described in the certificate of the surveying officer) was (when and where) built, and that I, the said (A. B.), and the other owners (names and occupations, if any, and where they respectively reside) am (or are) sole owner (or owners) of the said vessel, and that no other person or persons whatever hath or have any right, title, interest, share, or property therein or thereto; and that I, the said (A. B.), and the said other owners, if any, am (or are) truly and bona fide a subject (or subjects) of her Majesty for whom the Governor-General of India in Council has power to legislate, and that no person, not being a subject as aforesaid, directly or indirectly, hath any share or part interest in the said ship or vessel. Provided, that if the registering officer shall see occasion to doubt the truth of any of the facts contained in the above declaration, he shall not deem such declaration to be conclusive, but may refuse the registry or certificate, and his discretion exercised in this behalf shall be subject only to an appeal to the local Government to which he is subordinate.—Act. X, 1841, sec. v.

233. In case the required number of joint owners of any ship or vessel shall not personally attend to make and subscribe the declaration hereinbefore directed to be made and subscribed, then and in such case such owner or owners as shall personally attend and make and subscribe the declarations aforesaid, shall further declare that the part owner or part owners of such ship or vessel, then absent, is or are not resident within twenty miles of such port or place, and hath or have not to the best of his or their knowledge or belief, wilfully absented himself or themselves in order to avoid making the declaration hereinbefore directed to be made and subscribed, or is or are prevented by illness from attending to make and subscribe the said declaration.—Act X, 1841, sec. vi.

234. And in order to enable the registering officer to grant a certificate truly and accurately describing every ship or vessel to be registered in pursuance of this Act, and also to enable all other officers of customs, on due examination, to discover whether any such ship or vessel is the same with that for which a certificate is alleged to have been granted, it is hereby enacted, that previous to the registering or granting of any certificate of registry as aforesaid, some one or more person or persons appointed by the local Governments respectively, taking to his or their assistance, if he or they shall judge it necessary, one or more person or persons skilled in the building and admeasurement of ships shall go on board of every such ship or vessel that is to be registered, and shall strictly and accurately examine and admeasure every such ship or vessel as to all and every particular contained in the form of the certificate hereinbefore directed, in the presence of the master, or of any other person who shall be appointed for that purpose on the part of the owner or owners, or in his or their absence by the said master, and shall deliver a true and just account in writing of all such particulars of the build, description, and admeasurement of every such ship or vessel as are specified in the form of the certificate above recited to the officer authorised to make such registry and grant such certificate of registry as aforesaid; and the said master or other person attending on the part of the owner or owners is hereby required to sign his name also to the certificate of such surveying or examining officer, in testimony of the truth thereof, provided such master or other person shall consent and agree to the several particulars set forth and described therein.—Act X, 1841, sec. vii.

235. From and after the commencement of this Act, the tonnage of every ship or vessel required by law to be registered, shall, previous to her being registered, be measured and ascertained while her hold is clear, and according to the following rule; (that is to say) divide the length of the upper deck between the after part of the stem and the forepart of the stern post into six equal parts. Depths: at the foremost, the middle, and the aftermost of those points of division, measure in feet and decimal parts of a foot the depths from the underside of the upper deck to the ceiling at the limber strake. In the case of a break in the upper deck, the depths are to be measured from a line stretched in a continuation of the deck. Breadths: divide each of those three depths into five equal parts and measure the inside breadths at the following points, videlicet, at one-fifth and at four fifths from the upper deck of the foremost and aftermost depths, and at two-fifths and four-fifths from the upper deck of the midship depth. Length: at half the midship depth measure the

length of the vessel from the afterpart of the stem to the forepart of the sternpost, then to twice the midship depth add the foremost and the aftermost depths for the sum of the depths; add together the upper and lower breadths at the foremost division, three times the upper breadth and the lower breadth at the midship division, and the upper and twice the lower breadth at the after division, for the sum of the breadths; then multiply the sum of the depths by the sum of the breadths, and this product by the length, and divide the final product by three thousand five hundred, which will give the number of tons for register. If the vessel have a poop or half-deck, or a break in the upper deck, measure the inside mean length, breadth, and height of such part thereof as may be included within the bulk head; multiply these three measurements together and dividing the product by 92·4 the quotient will be the number of tons to be added to the result as above found. In order to ascertain the tonnage of open vessels, the depths are to be measured from the upper edge of the upper strake.—Act X, 1841, sec. viii.

236. In each of the several rules hereinbefore prescribed, when applied for the purpose of ascertaining the tonnage of any ship or vessel propelled by steam, the tonnage due to the cubical contents of the engine-room shall be deducted from the total tonnage of the vessel as determined by either of the rules aforesaid, and the remainder shall be deemed the true register tonnage of the said ship or vessel. The tonnage due to the cubical contents of the engine-room shall be determined in the following manner; that is to say, measure the inside length of the engine-room in feet and decimal parts of a foot from the foremost to the aftermost bulk-head, then multiply the said length by the depth of the ship or vessel at the midship division as aforesaid, and the product by the inside breadth at the same division at two fifths of the depth from the deck taken as aforesaid, and divide the last product by 92·4, and the quotient shall be deemed the tonnage due to the cubical contents of the engine room.—Act X, 1841, sec. ix.

235. The tonnage due to the cubical contents of the engine-room, and also the length of the engine-room, shall be set forth in the certificate of registry as part of the description of the ship or vessel, and any alteration of such tonnage due to the cubical contents of the engine-room, or of such length of the engine-room, after registry, shall be deemed to be an alteration requiring registry de novo, within the meaning of the said Act for the registering of ships or vessels.—Act X, 1841, sec. x.

238 For the purpose of ascertaining the tonnage of all such ships, whether belonging to the United Kingdom or otherwise, as there shall be occasion to measure while their cargoes are on board, the following rule shall be observed and is hereby established: (that is to say) measure first, the length on the upper deck between the afterpart of the stem and the forepart of the stern-post; secondly, the inside breadth on the underside of the upper deck at the middle point of the length; and, thirdly, the depth from the underside of the upper deck down the pump-well to the skin, multiply these three dimensions together, and divide the product by one hundred and thirty, and the quotient will be the amount of the register tonnage of such ships.—Act X, 1841, sec. xi.

239. The true amount of the register tonnage of every merchant ship or vessel belonging to the United Kingdom, to be ascertained according to the rule by this Act established in respect of such ships, shall be deeply carved or cut in figures of at least three inches in length, on the main beam of every such ship or vessel, prior to her being registered.—Act X, 1841, sec. xii.

240. Whenever the tonnage of any ship or vessel shall have been ascertained according to the rules herein prescribed, such account of tonnage shall ever after be deemed the tonnage of such ship or vessel, and shall be repeated in every subsequent registry of such ship or vessel, unless it shall happen that any alteration has been made in the form and burthen of such ship or vessel, or it shall be discovered that the tonnage of such ship or vessel had been erroneously taken and computed.—Act X, 1841, sec. xiv.

241. If such certificate as aforesaid shall be sold, lent, or otherwise disposed of to any person or persons whatever than those for whose use it is granted, or shall be made use of for the service of any other ship or vessel than the ship or vessel for which it is granted, such certificate shall thenceforth be utterly void, and the master or any owner of the ship or vessel who shall be proved to have sold, lent, or disposed of such certificate, or made use of the same as aforesaid, or shall have concurred in or been privy to the committing any such offence, shall be liable, upon conviction by information as aforesaid, to a penalty not exceeding ten thousand rupees. And in case such ship or vessel shall be lost or taken by the enemy, burnt or broken up, or otherwise prevented from returning to the port at which she is registered, or shall on any account have lost and forfeited the privileges of a British ship, or shall have been seized and legally condemned for illicit trading, or shall have been taken in execution for debt and sold by due process of law, or shall have been sold to the Crown or the East-India Company, or shall under any circumstances have been registered de novo, the certificate, if preserved, shall be delivered up, within one month after the arrival of the master in any port or place in the territories of the East-India Company, to the registering officer at such port; in default whereof, the master or any of the owners shall be liable, on conviction by information as aforesaid, to a penalty not exceeding five thousand rupees. And if any person not being such subject as aforesaid shall purchase or otherwise become entitled to the whole or to any

part or share of or any interest in such ship or vessel, and the same shall be within the limits of any port of the territories of the East-India Company, then and in such case the certificate of registry shall, within seven days after such purchase or transfer of property in such ship or vessel, be delivered up to the registering officer at such port; and if such ship or vessel shall be in any place not within the territories of the East-India Company, when such purchase or transfer of property shall take place, then the certificate shall be delivered up within fourteen days after the arrival of such ship or vessel, or of the master thereof, in any port of the territories of the East-India Company, to the registering officer at such port; in default whereof, the master or any of the owners shall be liable, on conviction before any justice of the peace, in a penalty not exceeding five thousand rupees, recoverable in manner provided by Act No II. of 1839.—("MAGISTRATES," paragraphs 54 to 57).

242. When and so often as the master of any ship or vessel registered in manner hereinbefore directed shall be changed, the master or owner of such ship or vessel shall deliver to the person or persons hereinbefore authorised to make such registry and grant such certificates of registry at the port where such change shall take place, if it be a port within the territories of the East-India Company, the certificate of registry belonging to such ship or vessel, who shall thereupon indorse and subscribe a memorandum of such change, and shall forthwith give notice of the same to the proper officer of the port or place where such ship or vessel was last registered pursuant to this Act, who shall likewise make a memorandum of the same in the book of registers which is hereby directed and required to be kept, and shall forthwith give notice thereof in like manner as of the original entry. But if the change do not take place in any port within the territories of the East-India Company, then such delivery, memorandum and indorsement shall be made and notice given at the first port within the territories of the East-India Company at which the new master shall arrive after such change. In default of which delivery of the certificate, such new master or any of the owners shall be liable, on conviction before a justice of the peace, to a penalty not exceeding five thousand rupees, recoverable as aforesaid.—Act X, 1841, sec. xvi.

243. It shall not be lawful for any owner or owners of any ship or vessel, to give any name to such ship or vessel other than that by which she was first registered in pursuance of this Act, and that the owner or owners of all and every ship or vessel which shall be so registered, shall, before such ship or vessel, after such registry, shall begin to take in any cargo, paint or cause to be painted, in white or yellow letters of a length of not less than four inches, upon a black ground, on some conspicuous part of the stern, the name by which such ship or vessel shall have been registered pursuant to this Act, and the port to which she belongs, in a distinct and legible manner, and shall so keep and preserve the same; and if such owner or owners, or master or other person having or taking the charge or command of such ship or vessel, shall permit such ship or vessel to begin to take in cargo before the name of such ship or vessel has been so painted as aforesaid, or shall wilfully alter, erase, obliterate, or in anywise hide or conceal, or cause or procure or permit the same to be done, or shall in any written or printed paper, or other document, describe such ship or vessel by any name other than that by which she was first registered pursuant to this Act, or shall verbally describe or cause or procure or permit such ship or vessel to be described by any other name to any officer or officers of revenue in the due execution of his or their duty, then and in every such case the certificate of registry shall thenceforth become utterly void, and such owner or owners, or master or other person having or taking the charge or command of such ship or vessel, shall be liable, on information as aforesaid, to a penalty not exceeding ten thousand rupees.—Act X, 1841, sec. xvii.

244. All and every person and persons who shall apply for a certificate of the registry of any ship or vessel shall, and they are hereby required to produce to the person or persons authorized to grant such certificate, a true and full particular under the hand of the builder of such ship or vessel, or in case the want of such certificate can be satisfactorily accounted for, then to produce other sufficient evidence of the proper denomination, and of the time when and the place where such ship or vessel was built, and also an exact account of the tonnage of such ship or vessel, and shall also make and subscribe a declaration before the person or persons hereinbefore authorized to grant such certificate that the ship or vessel for which such certificate is required is the same with that which is so described by the builder as aforesaid.—Act X, 1841, sec. xviii.

245. If the certificate of registry of any ship or vessel shall be lost or mislaid, so that the same cannot be found or obtained for the use of such ship or vessel when needful, and proof thereof shall be made to the satisfaction of the registering officer of the port at which the ship is registered, such officer shall and may, where the certificate shall have been lost or mislaid, permit such ship or vessel to be registered de novo, and a certificate thereof to be granted. Provided always, that if such ship or vessel be absent and far distant from the port to which she belongs, or by reason of the absence of the owner or owners, or of any other impediment, registry of the same cannot then be made in sufficient time, such registering officer shall and may grant a license for the present use of such ship or vessel, which license shall for the time and to the extent specified therein, and no longer, be of the same force and virtue as a certificate of registry granted under this Act. Provided

always, that if the certificate of registry shall at any time afterwards be found, the same shall be forthwith delivered to the proper officers of customs to be cancelled, and that no illegal use be made of the same; in default whereof, the original certificate and the renewed certificate and license shall thenceforth become utterly void, and any person wilfully detaining the certificate so required to be cancelled, or making any illegal use thereof, shall be liable, on conviction before any justice, in a penalty not exceeding five thousand rupees, recoverable as aforesaid.—Act X, 1841, sec .xix.

246. And whereas it is not proper that any person, under any pretence whatever, should detain the certificate of registry of any ship or vessel, or hold the same for any purpose other than the lawful use and navigation of the ship or vessel for which it was granted, it is therefore hereby enacted, that in case any person who shall have received or obtained by any means or for any purpose whatever the certificate of the registry of any such ship or vessel (whether such person shall claim to be the master or to be the owner or one of the owners of such ship or vessel, or not), shall wilfully detain and refuse to deliver up the same to the proper officers of customs, for the purposes of such ship or vessel, as occasion shall require, or to the person or persons having the actual command, possession, and management of such ship or vessel as the ostensible and reputed master, or as the ostensible and reputed owner or owners thereof, it may and shall be lawful to and for any such last-mentioned person to make complaint on oath of such detainer and refusal to any justice of the peace residing near to the place where such detainer and refusal shall be, and on such complaint the said justice shall and is hereby required, by warrant under his hand and seal, to cause the person so complained against to be brought before him to be examined touching such detainer and refusal, and if it shall appear to the said justice, on examination of such person or otherwise, that the said certificate of registry is not lost or mislaid, but is wilfully detained by the said person, such persons shall be subject, on conviction before such justice, to a penalty not exceeding one thousand rupees, recoverable as aforesaid; and the said justice shall, and he is hereby required to certify the aforesaid detainer, refusal, and conviction to the person or persons who granted such certificate of registry for such ship or vessel who shall, on the terms and conditions of law being complied with, make registry of such ship or vessel de novo, and grant a certificate thereof conformably to law, notifying on the back of such certificate the ground upon which the ship or vessel was so registered de novo; and if the person who shall have detained and refused to deliver up such certificate of registry as aforesaid, or shall be verily believed to have detained the same, shall have absconded so that the said warrant of the justice cannot be executed upon him, and proof thereof shall be made to the satisfaction of the registering officer of the port at which the ship or vessel was registered, it shall be lawful for the said officer to permit such ship or vessel to be registered de novo, or otherwise, in his discretion, to grant a license for the present use of such ship or vessel in like manner as is hereinbefore provided in the case wherein the certificate of registry is lost or mislaid.—Act X, 1841, sec. xx.

247. If any ship or vessel, after she shall have been registered pursuant to the directions of this Act, shall in any manner whatever be altered so as not to correspond with all the particulars contained in the certificate of her registry, or if any alteration shall take place in the ownership of any ship or vessel, or of any share or shares thereof, in such cases such ship or vessel shall be registered de novo, in manner hereinbefore required, as soon as she returns to the port to which she belongs, or to any other port within the territories of the East-India Company, on failure whereof such ship or vessel shall be deemed to be a ship or vessel not duly registered; and any person making use of a certificate for the purposes of any ship or vessel which has been granted in respect of the same, after the same ought to have been registered de novo, shall be liable, on conviction before any justice, to a penalty not exceeding five thousand rupees, recoverable as aforesaid.—Act X, 1841, sec. xxi.

248. And whereas great inconvenience may arise from the registering officers being served with subpœnas requiring them to bring with them and produce, on trials in Courts of Law relative to the ownership of vessels or otherwise, the declarations required to be taken by the owners thereof prior to the registering thereof, and the books of registry, or copies or extracts therefrom. And whereas it would tend much to the dispatch of business if the attendance of such registering officers with the same upon such trials were dispensed with, it is therefore hereby enacted, that the registering officer at any port or place, and the person or persons acting for them respectively, shall, upon every reasonable request by any person or persons whomsoever, produce and exhibit for his, her, or their inspection and examination, any declaration made by any such owner or owners, and also any register or entry in any book or books of registry required, and shall, upon every reasonable request by any person or persons whomsoever, permit him, her, or them to take a copy or copies or an extract or extracts thereof respectively, and that the copy and copies of any such oath or declaration, register or entry, shall, upon being proved to be true copy or copies thereof respectively, be allowed and received as evidence upon every trial at law, without the production of the original or originals, and without the testimony or attendance of any registering officer, or other person or persons acting for them respectively, in all cases, as fully and to all intents and purposes, as such

original or originals, if produced by any registering officer, or other person or persons acting for them, could or might legally be admitted or received in evidence.—Act X, 1841, sec. xxii.

249. If any person or persons shall falsely make declaration to any of the matters hereinbefore required to be verified by declaration—or if any person or persons shall counterfeit, erase, alter, or falsify any certificate or other instrument in writing required or directed to be obtained, granted, or produced by this Act—or shall knowingly or wilfully make use of any certificate or other instrument so counterfeited, erased, altered, falsified—or shall wilfully grant such certificate or other instrument in writing knowing it to be false, such person or persons shall for every such offence be liable, on conviction upon information as aforesaid, to a penalty not exceeding ten thousand rupees. And if any such offence be committed by the owner of any ship or vessel, the certificate of such ship or vessel shall thenceforth be wholly void.—Act X, 1841, sec. xxiii.

250. When any ship or vessel duly registered under this Act, or sailing under the British Navigation Law, shall come to be owned by a native prince or state, or by any subject of such native prince or state as aforesaid, it shall be lawful for the Governor of Fort William in Bengal, or for the Governor in Council of any presidency, to continue to such ship or vessel the privileges and advantages of a British ship for the purposes aforesaid, by a pass to be issued under the Company's seal and subscribed by a secretary to Government, stating the voyage or voyages for which the same is to have effect, and the period for which it is to last; and it shall be lawful for the Governor of Fort William in Bengal, or the Governor in Council of any presidency, to issue a similar pass, conferring the privileges and advantages of a British ship for the purposes aforesaid, under this Act, to any ship or vessel built within the dominions of such native prince or state, and owned by such prince or state, or by any of their subjects: provided always, that the ships belonging to native princes or states, or their subjects, in respect of which passes may be granted under this Act shall, during the voyage or voyages, or the period for which any such pass shall be granted, be commanded by a subject of her Majesty for whom the Governor-General in Council has power to legislate.—Act X, 1841, sec. xxiv.

251. The passes which, under the preceding paragraph may be issued for conferring the privileges and advantages of a British ship, in certain cases, to any ship or vessel built within the dominions of a native prince or state in subordinate alliance with, or having subsidiary treaties with the East-India Company, may, after the passing of this Act, be issued in the like cases and under the same restrictions, to any ship or vessel belonging to any such native prince or state, or their subjects, wherever the same may have been built.—Act XI, 1850, sec. ii.

252. All ships or vessels, of whatever rig and of whatever tonnage, owned by British subjects, entitled to registry under these rules, or owned by such native princes or states, or by their subjects entitled to passes under the two preceding paragraphs, employed only in coasting voyages, or between any port of the continent of India and the Island of Ceylon, may be registered and obtain passes, and the tonnage may be marked, according to such rules as shall be made from time to time by the Governor or Governor in Council of each presidency.—Act XI, 1850, sec. iii.

253. The owners of coasting vessels, registered under the preceding paragraph, shall pay for each certificate of registry,

For a vessel not exceeding the burthen of four tons, one rupee;
Exceeding four tons and not exceeding twenty tons, five rupees;
Exceeding twenty tons and not exceeding eighty tons, seven rupees;
Exceeding eighty tons, for each ton, two annas.

Which fees shall be carried to the credit of the Government of the presidency in which they are levied.—Act XI, 1850, sec. iv.

254. The fees demandable in respect of the granting any certificate or pass under this Act shall be fixed from time to time, according to the directions of the Governor-General in Council, but so that the same shall not exceed the amount of fees now payable for registering or granting passes to ships or vessels at the different presidencies.—Act X, 1841, sec xxv.

255. All ships or vessels registered under this Act shall be deemed to belong to the ports at which they shall be respectively registered. And all ships or vessels being registered, or in respect of which passes may have been granted which are unexpired at the time of passing this Act, shall, for the purpose of being deemed British ships, be deemed to belong to the ports at which they may have been registered, or when passes shall have been granted which are unexpired, at which such passes may have been respectively granted. And such ships or vessels built and owned as required by the statue 3 & 4 Vict. c. 56, shall continue subject to all the rules in force at the respective presidencies before the passing of this Act, touching the registering, measurement, granting passes, or other requisitions in respect of the same, and shall not be subject to the provisions of this Act, or any provisions of the statute law, a compliance with which may heretofore have been necessary in order that ships or vessels built and owned as aforesaid might be deemed British ships for the purposes of trade.—Act X, 1841, sec. xxvi.

*Proclamation.*

256. The Governor-General of India in Council hereby declares, that all ships and vessels built or to be built within the limits of the Charter of the East-India Company (as those limits are defined by the statute 3rd and 4th of Queen Victoria, cap. 56, entitled "An Act further to regulate the trade of ships built and trading within the limits of the East-India Company's Charter,") being owned by her Majesty's subjects for whom the said Governor-General in Council has power to legislate, and belonging, under the provisions of the Act passed by the Governor-General in Council, No. X. of 1841, to any ports in the territories under the Government of the East-India Company, shall be deemed to be British ships for all purposes of trade within the said limits, including the Cape of Good Hope and the territories and dependencies thereof.

MERCHANT SEAMEN.

257. A general register-office for merchant seamen shall be established at each of the ports of Calcutta, Madras, and Bombay, and at such other ports as the Governor-General of India in Council shall hereafter deem necessary.—Act XXVII, 1850, sec. i.

258. For every such office there shall be a registrar, with such assistants, clerks, and servants, at such salaries and allowances, and subject to such regulations as shall be from time to time directed, with the approval of the Governor-General of India in Council, by the Governor, or Governor in Council, of the presidency or place where the office is established.—Act XXVII, 1850, sec. ii.

259. Each registrar, before entering on the duties of his office, shall, with two sureties, execute a joint and several bond to the East-India Company, according to such form as shall be from time to time approved by the Governor-General of India in Council, conditional for the faithful performance of his duty, and for the due application and account of all moneys that shall come to him, as such registrar, under such amount of penalty as shall be from time to time fixed by the Governor, or Governor in Council, of the presidency or place.—Act XXVII, 1850, sec. iii.

260. Every person not having a register-ticket from any port in the United Kingdom of Great Britain and Ireland, who intends to serve (otherwise than as master or surgeon) on board of any vessel navigated from a port within the territories under the Government of the East-India Company, and registered as a British vessel under the statutes of Parliament and Acts of the Governor-General of India in Council, in force for the time being for the registry of British vessels, shall be bound to appear at one of the said registry-offices, for the purpose of procuring himself to be registered, and shall be bound to answer truly, to the best of his ability and knowledge, the several questions set forth in the Schedule (A) annexed to this Act, and such other questions as shall be from time to time directed by the Governor-General of India in Council, and until so registered shall not be allowed, after the 1st day of August, 1850, to serve in any capacity (other than master or surgeon) on board of any such registered vessel.—Act XXVII, 1850, sec. iv.

261. The registrar shall be bound to register every seaman, who shall appear at his office for that purpose, and truly answer the said questions to the best of his ability and knowledge.—Act XXVII, 1850, sec. v.

262. The registrar shall give to every seaman whom he shall register a register-ticket, containing as accurate a description as may be, of such seaman, in such form as shall be from time to time approved by the Governor-General of India in Council; for which he shall be entitled to take such fee, not exceeding one rupee, as shall be from time to time allowed by the Governor or Governor in Council; and shall keep recorded in his office a duplicate of every such register-ticket. The registrar shall ascertain to the best of his ability, and specify on the register-ticket, the class or rating of sea-faring persons to which each registered seaman appears to him to belong; and from time to time shall note on any ticket produced to him for that purpose any superior rating to which the holder of the ticket appears at that time to be entitled.—Act XXVII, 1850, sec. vi.

263. Whenever any seaman shall lose his register-ticket, he shall apply personally to one of the said registrars, and shall be bound to answer truly, to the best of his ability and knowledge, all questions which the registrar, or one of his assistants, shall put to him, touching the time and manner of the loss; and if it shall appear that no fraud has been committed or intended, the registrar shall furnish another ticket to him, upon payment of such fee, not exceeding five rupees, beside the common fee for the issue of a register-ticket, as the registrar shall think fit, under the instructions to be issued to him by the Governor or Governor in Council, having regard to the time and manner of the loss of the former ticket.—Act XXVII, 1850, sec. vii.

264. Whenever any registered seaman shall be committed to prison, or to any house of correction, the court or justice of the peace shall cause his register-ticket to be delivered to the keeper of such prison or house of correction, who shall keep it during the term of the seaman's imprisonment, and at the end of the imprisonment give it to him again; and whenever any registered seaman shall be sentenced to death or transportation, the person having him in custody shall send his register-ticket to the office of the registrar by whom it was issued.—Act XXVII, 1850, sec. viii.

265. The registrar shall cancel every register-ticket which shall come again into his possession, and from time to time shall make out lists, showing the number and name upon every ticket cancelled during the twelve months then last past, and of every ticket which shall have been represented to him to have been lost, and in respect of which he shall have issued another ticket during the same twelve months; and shall cause such lists to be published in the Gazette, in the English and vernacular language of the port, and shall also send them to the collector of customs and principal officer of police at such towns or ports as shall be directed by the Governor or Governor in Council, to be by them respectively exhibited in some conspicuous part of the custom-house and police-office; and copies of such lists shall be sent to the master attendant at every such port, and shall be delivered to any master or owner of a registered vessel on application, and on payment of a fee of one rupee.—Act XXVII, 1850, sec. ix.

266. The master of any such vessel shall not, at any port in the said territories, after the said 1st day of August, engage or employ, for the purpose of going to sea in his vessel, any unregistered seaman, or any seaman having a cancelled register ticket; and shall cause to be delivered to him the register-ticket of every seaman whom he shall so engage at any such port after the said 1st day of August, before putting to sea, which ticket the master shall keep safely (unless in the cases herein mentioned) until the end of the service of such seaman with him, and shall then give it back to the seaman to whom it belongs: and every master of a vessel who shall wilfully offend against this enactment shall be liable to a penalty, not exceeding one hundred rupees, for each seaman so unlawfully engaged or employed.—Act XXVII, 1850, sec. x.

267. Every person applying for a register-ticket who shall wilfully give a false answer to any question, which the registrar or his assistant is entitled to ask of him, or wilfully make any false statement before the registrar or his assistant as to the loss of any register-ticket, shall be liable to a penalty not exceeding fifty rupees.—Act XXVII, 1850, sec. xi.

268. Every person who shall wilfully alter, deface, or destroy any register-ticket, or counterfeit any such register-ticket, or transfer or traffic in any such ticket, issued or purporting to be issued under this Act, shall be liable to a penalty not exceeding one hundred rupees.—Act XXVII, 1850, sec. xii.

269. Every person who shall become possessed of any register-ticket, other than that lawfully issued to him (except masters of vessels and others directed to keep any such tickets by this Act), either by the death of the seaman to whom it belonged or otherwise, shall forthwith send it to the regstrar of the port whence it was issued, and in default of so doing, shall be liable to a penalty not exceeding one hundred rupees.—Act XXVII, 1850, sec. xiii.

270. Every seaman tendering to the master or owner of any vessel a cancelled register-ticket, or any ticket not lawfully issued to him, shall forfeit to the owner all wages accruing to him during the service for which he shall have agreed.—Act XXVII, 1850, sec. xiv.

271. All penalties directed by this Act may be imposed, on summary conviction before a magistrate or justice of the peace, and may be recovered with costs, as if they were imposed by a magistrate under Act II, 1839 ("MAGISTRATES," paragraphs 54 to 57).—Act XXVII, 1850, sec. xv.

272. The fees received by the registrar shall be applied toward defraying the expenses of this Act; beside which, a yearly duty of one anna per ton shall be levied for the same purpose on all vessels of the burden of one hundred and fifty tons and upwards, navigated to or from the ports within the territories under the Government of the East-India Company; and the production of a certificate of payment at one port of registry shall free the same vessel at all others during the current year, to be reckoned from the first day of January to the last day of December.—Act XXVII, 1850, sec. xvi.

273. SCHEDULES.

SCHEDULE (A).

1. What is your name and surname?
2. What is your father's name, and usual dwelling-place?
3. Have you been registered before?
4. Where were you born?
5. When were you born?

6. When did you first go to sea?
7. In what capacity did you first go?
8. In what capacity have you since served?
9. Have you served in the royal or Indian navy? or in the marine of the East India Company?
10. If you have, how long? and in what ships? and in what capacity?
11 Have you been in foreign service?
12. If you have, how long? and in what capacity? and under what flag?
13. How have you been generally employed at sea?
14. Where do you usually live when unemployed?

SCHEDULE (B).

Names and numbers of the register-tickets of the crew (including apprentices) now serving on board the , of the port of , of the burden of tons, on taking departure from the port of , in the East Indies, bound on a voyage to

| Number and Date of Ship's Register. | Name. | Capacity. | Number of Register Ticket. |
|---|---|---|---|
| | | | |

Dated this day of , 18

Master.

274. The master of any vessel navigated from any port within the territories under the Government of the East-India Company, where a registrar of seamen is or shall be appointed under Act XXVII, 1850, registered as a British vessel under any statute of Parliament, or Act of the Governor-General of India in Council, in force for the time being, for the registry of British vessels, except country craft not exceeding the burden of 300 tons, employed only in coasting voyages, shall not put to sea on any day after the first day of August, 1850, until an agreement, executed as hereinafter provided, shall have been made by him with such of his crew as are shipped at any port within the said territories, specifying what wages each seaman is to receive, and the quantity and quality of provisions he is to receive, the capacity in which each is to act, or serve, and the voyage in which the vessel is to be employed, or the length of time that each is to serve.—Act XXVIII, 1850, sec. i.

275. Every such agreement shall be in the form set forth in Schedule (A) annexed to this Act, or such other form as shall be from time to time approved by the Governor-General of India in Council, and shall be properly dated, and shall be signed by the master and the greater number of seamen shipped at any port in the said territories, of each kind of rating belonging to the vessel, on behalf of the crew respectively, in the presence of the registrar of seamen, or by some one appointed by him for that purpose, who, after hearing the agreement read over and explained to each seaman by whom it is to be signed, in a language understood by him, shall, if the seaman assent, cause him to put his signature or mark thereunto, and shall attest the same by his own signature, and shall keep recorded in his office a duplicate of such agreement executed and attested as aforesaid. Every seaman shipped on board such vessel, and not being an apprentice, shall be entitled to have the benefit of such agreement, according to his rating, as if it were executed by him.—Act XXVIII, 1850, sec. ii.

276. Every copy of such an agreement, certified by the registrar to be a true copy, shall, in all cases, be taken as evidence of the contents thereof on behalf of the seaman; and no seaman shall, in any case, be required to produce such agreement, or such copy as aforesaid, or to give notice for the production thereof; but if the agreement shall not be produced and proved, he shall be at liberty to prove the contents or purport thereof, or to establish his claim by other evidence according to the nature of the case.—Act XXVIII, 1850, sec. iii.

277. No seaman shipped under this Act, shall, by reason of any agreement, forfeit his lien upon the ship, or be deprived of any remedy for the recovery of his wages to which he would

otherwise be entitled, against any person or persons whatever; and no agreement, contrary to, or inconsistent with this Act, nor any clause, contract, or engagement, whereby any seaman shall consent or promise to forego, or give up, any right or claim to wages in the case of freight earned by a ship afterwards lost, or any right or claim to salvage or reward for salvage services, or such share of salvage or reward for salvage services as may be due to him by decree or award, or otherwise, shall be binding on such seaman.—Act XXVIII, 1850, sec. iv.

278. The wages of any seaman engaged to serve on any vessel under this Act shall be calculated by the calendar month.—Act XXVIII, 1850, sec. v.

279. If any seaman, serving under the provisions of this Act, shall, by a writing according to a form set forth in Schedule (B), annexed to this Act, or such other form as shall be from time to time approved by the Governor-General of India in Council, attested by the signature of the registrar or his assistant, and by the signature of the master of the vessel on which he is engaged to serve, and in which writing the purpose shall be stated, authorize the said registrar to receive monthly from the owner of the said vessel or his agent, any part of his wages, not exceeding one-third thereof, for the time for which he shall not have received any advance, for the purpose of maintaining his family during his absence, the said owner or his agent shall, on demand of the said registrar, pay such sum to him, to be applied as aforesaid, without requiring any proof from the said registrar that the said seaman is still on board the said vessel.—Act XXVIII, 1850, sec. vi.

280. All such payments, whether by the owner, his agent, or by the registrar, shall cease from and after the production of a certificate from the master of the vessel of the death, desertion, or discharge of the said seaman, or on reasonable evidence that the vessel has been lost; but no payment actually made by the registrar to the party appointed by the said seaman shall be reclaimable by reason of his death, desertion, or discharge, or of the loss of the vessel.—Act XXVIII, 1850, sec. vii.

281. All such receipts and payments shall be entered in a book, and all entries in the said book shall be authenticated by the registrar under his signature, or the signature of his assistant; and the said book shall be at all times open to the inspection of the parties concerned.—Act XXVIII, 1850, sec. viii.

282. At the time of witnessing the execution of the agreement for service the registrar shall explain to the seamen, parties thereunto, the conditions on which they can allot a part of their pay to their families during their service; and it shall be the duty of the registrar to see that all seamen leaving the port have the option of allotting part of their pay as aforesaid.—Act XXVIII, 1850, sec. ix.

283. The master of every such vessel, before leaving any port of registry, shall deliver to the registrar a list, signed by himself, of the name of every seaman engaged by him in the territories under the Government of the East-India Company (including apprentices), with their rating and the number of their register tickets, according to such form as shall be from time to time approved by the Governor-General of India in Council; and if he shall not have engaged any seaman within the said territories, the master shall deliver to the registrar a certificate of the fact signed by himself; and on receiving the said list or certificate, and on being satisfied of its truth, the registrar shall give to the master a certificate under his hand, that the master of such vessel has complied with the regulations of the registry office. Every master of any such vessel who shall leave a port of registry without delivering such list or certificate as aforesaid, shall be liable to a penalty not exceeding two hundred rupees.—Act XXVIII, 1850, sec. x.

284. For the purpose of preventing any seamen from being shipped on board of any vessel in any port of registry, contrary to the provisions of this Act, the registrar of the port, by himself or his agents, in a peaceable manner, may enter at any time on board of any such vessel, and muster and examine the several seamen employed therein; and any person who shall obstruct the said registrar or his agents in such duty shall be liable to a penalty not exceeding one hundred rupees.—Act XXVIII, 1850, sec. xi.

285. In cases when the registrar shall have reason to believe that any of the provisions of this Act have been evaded or neglected by the master, owner, or agent of any ship about to go to sea, the registrar, by a writing under his hand, may stay the grant of a port-clearance by the master attendant, and every master attendant shall comply with the written requisition of the registrar in this respect.—Act XXVIII, 1850, sec. xii.

286. The master of every such vessel, on which any seaman, engaged under this Act may be serving, shall, within seven days after the arrival of such vessel at the port where the voyage ends, or after the end of the service, according to the agreement entered into, in accordance with this Act pay or cause to be paid to such seamen the wages remaining due to them for their services, taking a receipt from each man for the amount paid to him, either separately or on a general list, which receipt shall be certified by the chief or second officer, or other credible witness, and otherwise shall be of no force or validity.—Act XXVIII, 1850, sec. xiii.

287. Every master or owner who shall neglect or refuse to pay any seaman's wages, within the time mentioned in the last paragraph, shall forfeit and pay to such seaman the amount of two days' pay, to be recovered as wages, for each day, not exceeding ten days in the whole, during which such payment has been delayed without sufficient cause.—Act XXVIII, 1850, sec. xiv.

288. If any seaman, to whom any wages are due, die before the wages due have been paid, then the wages shall be paid to the registrar of the port of registry at which the ship shall first touch after his death, and the registrar shall pay the same to his legal representative, and failing such legal representative, after the expiration of twelve months from the first of January next following the day on which he shall have received the said balance, into the treasury of the East-India Company, after having given due notice of such unclaimed balance being in his possession, by advertisement in the Gazette, at least twice during such period.—Act XXVIII, 1850, sec. xv.

289. Every master of a vessel who shall be convicted before a magistrate of having neglected to pay to the registrar within ten days of the ship's arrival in the port as aforesaid, the wages due to deceased seamen, shall forfeit three times the amount of wages so neglected to be paid; and further shall be subject to such fine, not exceeding one hundred rupees, for each case of neglect, as to such magistrate shall seem fit.—Act XXVIII, 1850, sec. xvi.

290. Whenever any merchant vessel, navigated and registered as is mentioned in paragraph 274, and not having been wrecked or condemned, shall be sold or disposed of at any port out of the territories under the Government of the East-India Company, or whenever the service of any seaman shall end at any such port, the master shall give to each seaman a certificate of discharge and his register-ticket, and also either provide for him fit employment on board some other such vessel bound to some port within the said territories, or provide for him a passage to the port at which he was shipped, or such other port as may be agreed on, either free of cost, or by depositing with the British consul or vice-consul, or if there be none such, with some resident merchant of the port, not interested in the vessel, such a sum of money as shall be, by him, deemed reasonable enough to pay the expenses of his subsistence and passage, which money shall be paid over and above any wages which may be due to him.—Act XXVIII, 1850, sec. xvii.

291. If the master shall neglect or refuse to provide employment, or the means of passage, for any of his crew as mentioned in the last paragraph, the expense of doing so, when defrayed, shall be a charge on the owner of the vessel, unless in cases of barratry, wreck, or condemnation, and may be recovered, with full costs of suit, from such owner as so much money paid on his account, at the suit of the consul or any other person defraying such expenses, or at the suit of the East-India Company, in case the same has been paid or allowed out of any moneys belonging to the East-India Company; and, if defrayed by the seaman himself, may be recovered as wages due to him.—Act XXVIII, 1850, sec. xviii.

292. The obligations of the last two paragraphs shall not apply to such of the crew as shall consent, in writing, before the British consul or vice-consul, or if there be no British consul or vice-consul at the port, before one or more resident merchants not interested in the vessel, to be then and there discharged.—Act XXVIII, 1850, sec. xix.

293. In all cases of wreck or loss of the ship, every seaman then on board shall be entitled to his wages up to the time of the wreck or loss, whether or not the ship has earned freight: provided he shall produce, from the master or chief surviving officer of the ship, a certificate that he did his best to save the ship, cargo, and stores.—Act XXVIII, 1850, sec. xx.

294. Every seaman shall be entitled to receive an increase of his wages for every day on which the allowance of provisions, which it was agreed he should receive, shall be reduced, at the rate of one anna daily, while the reduction is not more than one-third of the quantity, and two annas daily, while the reduction is more than one-third, and these pecuniary allowances shall be recoverable as his other wages are —Act XXVIII, 1850, sec. xxi.

295. No assignment, or sale of seamen's wages, salvage, or prize-money, made before the accruing thereof, nor any power of attorney expressed to be irrevocable, for the receipt of any seaman's wages, salvage, or prize-money, shall be valid or binding on the party making the same, and any attachment, to be issued out of any court, shall not prevent the payment of any seaman's wages, salvage, or prize-money to him.—Act XXVIII, 1850, sec. xxii.

296. Every such vessel shall have always on board a sufficient supply of medicines and appliances, suitable for diseases and accidents likely to happen on sea voyages, according to such scale as shall be from time to time issued by the superintendent of the Indian navy, with the approval of the Governor-General of India in Council, and published in the Government Gazettes at Calcutta, Madras, and Bombay; and, in default thereof, the owner of the vessel shall be liable to a penalty, not exceeding two hundred rupees, and five rupees for every day during which such default shall wilfully continue.—Act XXVIII, 1850, sec. xxiii.

297. Whenever the master, or any officer, or seaman of any such vessel shall receive any hurt or injury in the service of the vessel, the expense of providing the necessary surgical and medical advice and attendance, with medicines, and for his subsistence, until he shall be cured or shall be

brought back to the port from which he was shipped, or other port agreed upon, shall be defrayed with the cost of his conveyance to such port, by the owner of the vessel, without any deduction on that account from the wages of such master, officer, or seaman; and, if paid by himself, may be recovered as part of his wages; and, if paid or allowed out of any moneys belonging to the East-India Company, may be recovered with full costs of suit, as a debt due to the East-India Company.—Act XXVIII, 1850, sec. xxiv.

298. If any vessel, on board of which there shall be any seaman who has received an advance under this Act, shall, before going on the voyage for which such advance shall have been paid, be destroyed or injured by fire, or other cause, so as to prevent her going on her then intended voyage, or if such voyage shall be discomfited at the beginning, or before the advance has been worked out, the master, owner, or agent of such vessel may demand from such seaman, unless he shall pay back the amount so advanced to him, service to the full amount of the advance received by him, on board of any other vessel; and such seaman, until he has worked out such advance, shall not be entitled, without the consent of such master, owner, or agent, to take service in any vessel other than that on which he is so required to serve; and any such seaman who shall refuse to work out such advance on board such other vessel, on summary conviction of his refusal before any magistrate or justice of the peace, shall be liable to be imprisoned, with hard labour, for any term not exceeding six months.—Act XXVIII, 1850, sec. xxv.

299. The registrar of seamen may grant from time to time to such persons as he may deem fit, a license to act as broker for procuring seamen for vessels shipping men under this Act, and also a license to the keeper of any lodging-house for seamen, enabling him to allow seamen to be engaged at his house, and also may revoke and annul such license on the misconduct of any such person: and every such license shall be granted for such term, upon such conditions and upon such security given, as the said registrar shall from time to time appoint.—Act XXVIII, 1850, sec. xxvi.

300. Every person, not licensed as aforesaid, and not being the owner, part owner, master, or person in charge of the vessel, on board of which the men are to serve, who shall hire or engage a seaman, to be entered on board any merchant ship, at any port of registry, and every person, whether licensed or not, other than the owner, part owner, master, or person in charge of the merchant ship, on board of which the men are to serve, who shall demand or obtain the register ticket of any seaman, for the purpose, or under the pretence, of engaging him on board of any merchant ship, and every person, whether or not licensed as aforesaid, who shall ask or take, directly or indirectly, from any seaman any fee, reward, or other valuable consideration, for hiring or engaging or endeavouring to hire or engage him on board of any merchant ship, shall be liable to a penalty, not exceeding five hundred rupees.—Act XXVIII, 1850, sec. xxvii.

301. Every licensed broker, who shall engage any seamen at any punch-house or tavern, not being a licensed lodging-house for seamen as aforesaid, or who shall be directly or indirectly interested in any punch-house or tavern, not being a licensed lodging-house for seaman as aforesaid, shall forfeit his license.—Act XXVIII, 1850, sec. xxviii.

302. Every person, who shall persuade or endeavour to persuade, or hinder any seaman from complying with any of the provisions of this Act, or who shall counsel such seaman to desert, or who shall conceal, or aid in concealing or maintaining any seaman who has deserted, shall be liable to a penalty, not exceeding five hundred rupees.—Act XXVIII, 1850, sec. xxix.

303. If a seaman engaged under this Act shall, at any time, whether before or during any voyage, neglect or refuse to join the vessel, on board of which he shall have engaged to serve, or shall refuse to go to sea in such vessel, or shall absent himself therefrom without leave, or shall desert, any justice of the peace or magistrate in the territories under the Government of the East-India Company, at or near to the place where such vessel shall happen to be, or where such seaman shall be found, upon complaint made upon oath, by the master, mate or owner, or his agent, may issue his warrant, and cause such seaman to be taken into custody, and brought before him; and upon due proof of such neglect, refusal, or absence, without reasonable excuse, or of desertion, may commit such seaman to prison, or to the house of correction, there to be imprisoned, with or without hard labour, for a term not exceeding thirty days; or if he shall think fit, at the request of the master, mate, or owner, or his agent, instead of committing such seaman, may cause him to be taken on board the said vessel, or to be delivered to the master, mate, or owner, or his agent, for the purpose of being so taken and going on the voyage; and also may award to the master, or owner, or his agent, such costs incurred in the apprehension of the seaman, as to such justice or magistrate shall seem reasonable, not exceeding, in any case, the sum of twenty rupees, which shall be chargeable against, and may be deducted from, the wages of such seaman.—Act XXVIII, 1850, sec. xxx.

304. Every seaman engaged under this Act, who, during the term of his service, shall wilfully, and without leave, absent himself from the vessel, or otherwise from his duty, shall (in all cases not of desertion, or not treated as such by the master), forfeit out of his wages the amount

of two days' pay, and for every twenty-four hours of such absence the amount of six days' pay or, at the option of the master, the amount of such expenses as shall have been necessarily incurred in hiring a substitute; and every seaman who, while he shall belong to the vessel, shall, without sufficient cause, neglect or refuse to perform his duty reasonably required of him by the master, or other person in command of the vessel, shall be subject to a like forfeiture in respect of every such offence, and of every twenty-four hours continuance thereof; and every such seaman, who after the vessel's arrival at her port of delivery, and during the term of his service, shall leave the vessel without a discharge or leave from the master, shall forfeit one month's pay out of his wages: provided always, that no such forfeiture shall be incurred, unless the fact of the seaman's absence, neglect, or refusal shall be duly entered in the log-book, the truth of which entry the owner, master, or agent, in all cases of dispute, shall be bound to substantiate, by the evidence of the mate, or some other credible witness.—Act XXVIII, 1850, sec. xxxi.

305. Every seaman engaged under this Act, who shall desert his vessel, shall forfeit to the owner all his clothes and effects which he may leave on board; and also all wages and emoluments to which he might otherwise be entitled: provided always, that every desertion be entered in the log-book at the time, and certified by the signatures of the master and the mate, or the master and one credible witness.—Act XXVIII, 1850, sec. xxxii.

306. If any seaman shall desert, during the term for which he has engaged to serve, in any place beyond the port where he was engaged, and the master of the vessel shall engage a substitute at a higher rate of wages than that stipulated in the agreement to be paid to the seaman so deserting, the owner, agent, or master of the vessel shall be entitled to recover from the deserter, by summary proceeding, in the same manner as penalties are by this Act made recoverable (so far as the same can be applied), any excess of wages or portion thereof which such owner, agent, or master shall pay to such substitute, beyond the amount which would have been payable to the deserter if he had duly performed his service: provided always, that no seaman shall be imprisoned longer than three calendar months for non-payment of any such excess of wages.—Act XXVIII, 1850, sec. xxxiii.

307. The absence of a seaman from his vessel for any time within twenty-four hours immediately before the sailing of a vessel from any port, whether before or during any voyage, wilfully or knowingly, without leave, or the wilful absence of a seaman from his vessel, at, or for any time, without leave, and in such manner as to show an intention to abandon his vessel, and not return thereto shall be deemed desertion.—Act XXVIII, 1850, sec. xxxiv.

308. Every person who shall wilfully harbour or conceal any seaman or apprentice who shall have deserted, knowing or having reason to believe such seaman or apprentice to be a deserter, shall, for every such seaman or apprentice so harboured or concealed, be liable to a penalty not exceeding one hundred rupees.—Act XXVIII, 1850, sec. xxxv.

309. No debt exceeding in amount three rupees, incurred by any seaman after he shall have engaged to serve under this Act, shall be recoverable until the service agreed for shall be ended; nor shall any keeper of a public house, or of a lodging-house for seamen be entitled to detain any chest, tools, or other property of any seaman for any debt alleged to have been contracted by him; and in case of such detention of the chest, tools, or other property of a seaman, any justice of the peace or magistrate at or near the place, upon complaint upon oath to be made by such seaman, or by any person on his behalf, may inquire into the matter upon oath in a summary way; and, by warrant under his hand and seal, may cause such property to be seized and delivered over to such seaman; and the person so detaining the same shall be liable to a penalty not exceeding one hundred rupees.—Act XXVIII, 1850, sec. xxxvi.

310. Any justice of the peace or magistrate, within the territories subject to the East-India Company upon complaint made by any three or more of the crew of any such vessel, shall survey and examine, or cause to be surveyed and examined, the provisions, water, and medicines put or supplied on board of the vessel, for the use and consumption of the crew; and if, on such survey and examination, it shall be found that such provisions, water, or medicines are of a bad quality, or unfit for use, or not such as should be provided, or there shall not appear to be a sufficient quantity thereof, the surveying officer shall signify the same, in writing to the master of the vessel; and if such master shall not thereupon provide other fit provisions, water or medicines, instead of any which may be signified by the said surveying officer to be of a bad quality or unfit, or if any such master shall not thereupon procure the needful quantity of provisions, water, and medicines, or shall issue to the crew any provisions, water, or medicines, which shall have been signified by the surveying officer to be of a bad quality, or unfit, he shall in each of such cases, be liable to a penalty not exceeding five hundred rupees.—Act XXVIII, 1850, sec. xxxvii.

311. A place of shelter shall be provided below a well-caulked and substantial deck, for the men engaged, under this Act, large enough to allow four superficial feet for every man; and if the place allotted be under the top-gallant forecastle, such forecastle deck shall be not less than four feet six inches above the one below it; and in default thereof every man who is unprovided with

such adequate shelter shall be entitled to have an increase of his wages, at the rate of four annas daily while he is so unprovided, which shall be recoverable as his other wages are.—Act XXVIII, 1850, sec. xxxviii.

312. All penalties, directed by this Act, may be imposed on summary conviction before a magistrate or justice of the peace, and may be recovered, with costs, as if they were imposed by a magistrate under Act II, 1839 (MAGISTRATES," paras. 54 to 57).—Act XXVIII, 1850, sec. xxxix.

313. All claims for wages or forfeitures due and incurred under the agreements entered into under this Act may be heard and determined by any justice of the peace or magistrate; and the amount, with costs, awarded by such justice or magistrate, shall be recovered from the party against whom the award is made, in the same manner as fines levied under the provisions of Act. II, 1839.—Act XXVIII, 1850, sec. xl.

314. Every person haivng the charge or command of any vessel sailing under this Act shall be deemed to be the master of such vessel, within the meaning of this Act, and every other person (apprentices excepted) who shall be employed or engaged to serve in any capacity on board, except as surgeon, shall be deemed to be a seaman, within the meaning of this Act; and the term "owner" shall be deemed to comprehend all the several persons, if more than one, to whom the vessel belongs, and the term "agents" shall be deemed to comprehend all the several persons, if more than one who are agents of the "owner."—Act XXVIII, 1850, sec. xli.

315. SCHEDULES.

SCHEDULE (A).

An agreement made pursuant to an Act passed by the Governor-General of India in Council, and numbered No. XXVIII, of 1850, between the master of the ship , of the port of , and of the burden of tons, and the several persons whose names are set hereto, on behalf of themselves and others shipped on board the said ship within the territories under the Government of the East-India Company.

It is agreed by, and on the part of the said persons, and they severally hereby engage to serve on board the said ship in the several capacities against their respective names expressed [or from the day of to the day of both inclusive] (where the intended voyage is to be described as nearly as can be done, and the places at which it is intended the ship shall touch, or, if that cannot be done, the nature of the voyage in which she is to be employed); and the said crew further engage to conduct themselves in an orderly, faithful, honest, careful, and sober manner, and to be, at all times, diligent to their respective duties and stations, and to be obedient to the lawful commands of the master, in everything relating to the said ship, and the materials, stores, and cargo thereof, whether on board such ship, in boats, or on shore; in consideration of which services, to be duly, honestly, carefully, and faithfully performed, the said master doth hereby promise and agree to pay to the said crew, by way of compensation or wages, the amount against their names respectively expressed. And it is hereby agreed, that any embezzlement, or wilful or careless loss or destruction of any part of the ship's cargo or stores, shall be made good to the owner out of the wages (so far as they will go) of the seaman guilty of the same; and if any seaman shall have entered himself as qualified for a duty for which he shall prove unfit, he shall be liable to a reduction of the rate of wages hereby agreed for, in proportion to his unfitness. In witness whereof, the said parties have hereto set their names, on the days against their respective signatures mentioned

| No. and date of Ship's Register. | Place and time of Entry. | | | | Men's names set forth at full length. | Number of Register Ticket. | Name of the ship in which the Seaman last served. | Age. | Town or Country, where born or place of birth. | Caste or profession. | Amount of wages per calendar month, Share or Voyage. | Amount of Wages advanced at time of Entry. | Amount of Monthly Allotment. | Quantity and Quality of Provisions per Day. | Signature. | Witnesses' Signature |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | Day. | Month | Year. | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | |

I hereby declare the truth of all the particulars set forth in this agreement made at the port of ( ); this day of 18

Master.
Mate.

SCHEDULE (B).

Ticket of allotment of wages by a registered seaman at the port of I registered number now serving as on board the vessel at monthly wages of rupees, hereby authorise and request the registrar of seaman at to receive from the agents of the one-third of my monthly wages as they become due, after I shall have served the time for which I have received advance, which time will expire on the day of next, and I hereby authorise the registrar to pay the same to my or the person holding this paper, taking his or their receipt, monthly, on the back hereof.

—Appended to Act XXVIII, 1850.

TRADE ON THE FRONTIERS OF SYLHET.

316. The trade on the frontier of Sylhet with the Cosseas and other mountaineers, as well as with all other persons, is declared free to the native inhabitants of the district of Sylhet, as well as to all other natives of the Company's provinces; and to Armenians, Greeks, and all other persons whatever. Provided, with respect to all descriptions of persons, that the trade be carried on under the general restrictions contained in the following paragraphs.—Reg. I, 1799, sec. ii.

317. No person shall supply the Cosseas or other hill people with arms, ammunition, saltpetre, sulphur, or other articles of military store.—Reg. I, 1799, sec. iii, cl. 2.

318. No burkundass, or other armed men, belonging to individuals (excepting such as may be indispensably necessary for their personal safety or the security of their property), shall be allowed on any pretence to pass to or beyond Laour, or beyond any other part of the Company's frontier, especially beyond the Surmah river.—Reg. I, 1799, sec. iii, cl. 3.

319. The magistrate of the district of Sylhet, and his police officers, are required to cause strict observance of the provisions contained in the foregoing paragraph; and all contraband articles which it may be attempted to pass by any of the frontier stations, against the prohibition contained in paragraph 317, together with all boats, carriages, or cattle, which may be employed for the conveyance thereof, are declared liable to seizure and confiscation for the use of Government. The police officers stationed at Laour and at the other frontier stations are authorized to search all boats, carriages, and carriage-cattle, for the purpose of ascertaining whether they contain any of the above-mentioned contraband articles (detaining them no longer than may be absolutely necessary for this purpose); and if any such be found, they are to seize and send them with the boat, carriage, or cattle used in the conveyance of them, to the magistrate of Sylhet, who shall make a full inquiry into the circumstances of the case; and if he be satisfied that the articles seized are liable to confiscation under these rules, shall declare the same confiscated, and report his proceedings to the Governor-General in Council, for his orders as to the disposal of the property or otherwise. The magistrate shall also report to the Governor-General in Council any instances of persons, whether British subjects or others, acting in opposition to the preceding paragraph, for such orders as may appear necessary; and any British subject or other European, as well as any Armenian, Greek, or other person whatever, not being a native inhabitant of the district of Sylhet, who may be found to have acted in opposition to any part of paragraphs 317 and 318, or who may be guilty of any misconduct in his intercourse with the hill people, will be considered to have forfeited all title to remain in the above district, and be liable, at the pleasure of Government, to be sent to Calcutta.—Reg. I, 1799, sec. iv; Reg. II, 1828, sec. ii.

320. The police officers who may seize any property declared liable to confiscation under the preceding article, shall be allowed twenty-five per cent. on the proceeds of the sale thereof; and if the seizure shall have been made upon information from any other person, the same reward shall be granted to the informer. Provided, however, that if the property seized shall not be declared by the magistrate liable to confiscation, the person or persons who made the seizure, or who may have given any false information on which the seizure was made, shall be liable to be sued for damages by the proprietor in the Zillah Dewanny Adawlut.—Reg. I, 1799, sec. v.

321. Provided also, that any person dissatisfied with the magstrate's order for confiscation, under paragraph 319, shall be at liberty to state his objections to the Governor-General in Council, who will afford such relief as may appear to him equitable, or leave the complainant to seek his remedy in the civil courts, in the mode prescribed in Section XI, of Regulation III, 1793, ("PROCEDURE ON THE TRIAL OF ORIGINAL SUITS,") which is hereby declared to extend to any suits against Government which may be instituted for acts done under the present Regulation.—Reg. I, 1799, sec. vi.

322. The provisions herein contained render it unnecessary for any trader, whether native, European, or otherwise, to apply for the perwannahs which have been heretofore granted by

the collector or magistrate of Sylhet to the thannadar of Laour, for the purpose of their being supplied with chunam, and all such perwannahs are hereafter expressly forbidden to be issued, as militating with the general freedom of trade meant to be established by these rules. But nothing herein contained is to be understood to restrict the magistrate of Sylhet from issuing such instructions to the police darogah at Laour, and to the other police officers within his jurisdiction, as he may consider necessary to carry into full effect these several provisions, or to prevent disagreements and breaches of the peace between the traders and hill people on the frontier, so that such instructions be not repugnant to this or any other existing regulation.—Reg 1, 1799, sec. VIII

# MISCELLANEOUS.

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# MISCELLANEOUS.

### VALIDITY OF CERTAIN ACTS OF THE GOVERNMENT OF BENGAL.

1. ALL acts done by the Governor-General of India in Council, or by the Vice-President of Fort William in Bengal in Council, or in pursuance of any authority given by the said Governor-General in Council, or by the said Vice-President in Council, between the 22nd of April, 1834, and the 14th of November, 1834, shall be valid and effectual to all intents and purposes as if the said acts had been done before the said 22nd day of April, 1834.—Act I, 1834.

### AUTHORITY OF THE SECRETARIES TO GOVERNMENT.

2. Each of the secretaries to the Government of India, and to the Government of Fort William in Bengal, shall be competent to perform all the duties and to exercise all the powers which, by any Act of Parliament or any Regulation now in force, are assigned to the chief secretary to the Government of Fort William in Bengal.

### AUTHORITY OF A GOVERNMENT GAZETTE TO PROVE AN "ACT."

3. The production of a Government "Gazette" of any presidency, containing an Act purporting to have been passed by the Governor-General in Council, shall be held in all courts sufficient proof that such Act has been passed.—Act X, 1835.

### PRINTING PRESSES.

4. No printed periodical work whatever, containing public news, or comments on public news, shall be published within the territories of the East India Company, except in conformity with the rules hereinafter laid down—Act XI, 1835, sec. ii, cl. 1.

5. The printer and the publisher of every such periodical work shall appear before the magistrate of the jurisdiction within which such work shall be published, and shall make and subscribe, in duplicate, the following declaration:

"I, A. B., declare that I am the printer (or publisher, or printer and publisher), of the periodical work entitled , and printed (or published, or printed and published) at ." And the last blank in this form of declaration shall be filled up with a true and precise account of the premises where the printing or publication is conducted.—Act XI, 1835. sec. ii, cl. 2.

6. As often as the place of printing or publication is changed, a new declaration shall be necessary.—Act XI, 1835, sec. ii, cl. 3.

7. As often as the printer or publisher, who shall have made such declaration as is aforesaid, shall leave the territories of the East India Company, a new declaration from a printer or publisher, resident within the said territories, shall be necessary.—Act XI, 1835, sec. ii, cl. 4.

8. Whoever shall print or publish any such periodical work, as is hereinbefore described, without conforming to the rules hereinbefore laid down, or whoever shall print or publish, or shall cause to be printed or published, any such periodical work, knowing that the said rules have not been observed with respect to that work, shall, on conviction, be punished with fine to an amount not exceeding five thousand rupees, and imprisonment for a term not exceeding two years.—Act XI, 1835, sec. iii.

9. Each of the two originals of every declaration, so made and subscribed as is aforesaid, shall be authenticated by the signature and official seal of the magistrate before whom the said declaration shall have been made, and one of the said originals shall be deposited among the records of the office of the magistrate, and the other original shall be deposited among the records of the Supreme

Court of Judicature, or other Queen's Court within the jurisdiction of which the said declaration shall have been made; and the officer in charge of each original shall allow any person to inspect that original, on payment of a fee of one rupee, and shall give to any person applying a copy of the said declaration, attested by the seal of the court which has the custody of the original, on payment of a fee of two rupees.—Act XI, 1835, sec. iv.

10. In any legal proceeding whatever, as well civil as criminal, the production of a copy of such a declaration as is aforesaid attested by the seal of some court empowered by this Act to have the custody of such declarations, shall be held (unless the contrary be proved) to be sufficient evidence as against the person whose name shall be subscribed to such declaration that the said person was printer or publisher, or printer and publisher (according as the words of the said declaration may be), of every portion of every periodical work whereof the title shall correspond with the title of the periodical work mentioned in the declaration.—Act XI, 1835, sec. v.

11. Provided always, that any person who may have subscribed any such declaration as is aforesaid, and who may subsequently cease to be the printer or publisher of the periodical work mentioned in such declaration, may appear before any magistrate, and make and subscribe in duplicate, the following declaration:

"I, A. B., declare that I have ceased to be the printer or publisher (or printer and publisher), of the periodical work entitled ." And each original of the latter declaration shall be authenticated by the signature and seal of the magistrate before whom the said latter declaration shall have been made, and one original of the said latter declaration shall be filed along with each original of the former declaration; and the officer in charge of each original of the latter declaration shall allow any person applying to inspect that original, on payment of a fee of one rupee, and shall give to any person applying a copy of the said latter declaration, attested by the seal of the court having custody of the original, on payment of a fee of two rupees; and in all trials in which a copy, attested as is aforesaid, of the former declaration shall have been put in evidence, it shall be lawful to put in evidence a copy attested as is aforesaid, of the latter declaration; and the former declaration shall not be taken to be evidence that the declarant was, at any period subsequent to the date of the latter declaration, printer or publisher of the periodical work therein mentioned.—Act XI, 1835, sec. vi.

12. Every book or paper printed within the territories of the East India Company, shall have printed legibly on it the name of the printer, and of the publisher, and the place of printing and of publication; and whoever shall print or publish any book or paper otherwise than in conformity with this rule shall, on conviction, be punished by fine to an amount not exceeding five thousand rupees, and by imprisonment for a term not exceeding two years.—Act XI, 1835, sec. vii.

13. No person shall, within the territories of the East India Company, keep in his possession any press for the printing of books or papers, who shall not have made and subscribed the following declaration before the magistrate of the jurisdiction wherein such press may be; and whoever shall keep in his possession any such press, without making such a declaration, shall, on conviction, be punished by fine to an amount not exceeding five thousand rupees, and by imprisonment for a term not exceeding two years.

"I, A. B., declare that I have a press for printing at ." And this last blank shall be filled up with a true and precise description of the premises where such press may be.—Act XI, 1835, sec. viii.

14. Any person who shall, in making any declaration under the authority of this Act, knowingly affirm an untruth, shall, on conviction thereof, be punished by fine to an amount not exceeding five thousand rupees, and imprisonment for a term not exceeding two years.—Act XI, 1835, sec. ix.

## COPYRIGHT.

15. Whereas doubts may exist whether the right called copyright can be enforced by the common law of England in those parts of the territories subject to the Government of the East-India Company into which the common law of England has been introduced:

And whereas doubts may exist whether the said right can be enforced by virtue of the principles of equity and good conscience in the other parts of the territories subject to the Government of the East India Company:

And whereas, for the encouragement of learning, it is desirable that the existence of the said right should be placed beyond doubt, and that the said right should be made capable for easy enforcement in every part of the said territories:

And whereas it is doubtful whether the Act of Parliament 5 and 6 Vict. c. 45, entitled "An

Act to amend the Law of Copyright," although such Act extend to every part of the British dominions, has made appropriate and sufficient provisions for the enforcement in every part of the said territories subject to the Government of the East India Company of the said right by proprietors thereof: and whether the said Act of Parliament has made provision for the enforcement of the said right by or against any persons not being subject to the jurisdictions of the courts established by Her Majesty's charter.—Act XX, 1847, Preamble.

16. It is therefore hereby enacted, that the copyright in every book published in the lifetime of its author within the said territories, after the passing of the Act of Parliament 3 and 4 Wm. IV, c. 85, entitled "An Act for effecting an Arrangement with the East India Company, and for the better Government of His Majesty's Indian Territories till the 30th day of April, 1854," shall endure for the natural life of such author, and for the further term of seven years commencing at the time of his death, and shall be the property of such author and his assigns: provided always, that if the said term of seven years shall expire before the end of forty-two years from the publication of such book, the copyright shall in that case endure for such period of forty-two years; and that the copyright in every book published after the death of its author and after the passing of the Act of Parliament last aforesaid, shall endure for the term of forty-two years from the first publication thereof, and shall be the property of the proprietor of the author's manuscript, from which such book shall be first published, and his assigns.—Act XX, 1847, sec. i.

17. And whereas it is expedient to provide against the suppression of books of importance to the public: it is enacted that it shall be lawful for the Governor-General in Council, on complaint made to them that the proprietor of the copyright in any book published after the passing of this Act within the said territories, has, after the death of its author, refused to republish or to allow the republication of the same, and that by reason of such refusal such book may be withheld from the public, to grant a license to such complainant to publish such book in such manner and subject to such conditions as they may think fit, and it shall be lawful for such complainant to publish such book according to such license.—Act XX, 1847, sec. ii.

18. A book of registry wherein may be registered, as hereinafter enacted, the proprietorship in the copyright of books and assignments thereof, and licenses affecting such copyright, shall be kept in the office of the secretary to the Government of India for the Home Department, and shall at all convenient times be opened to the inspection of any person, on payment of eight annas for every entry which shall be searched for or inspected in the said book, and that such officer shall, whenever thereunto reasonably required, give a copy of any entry in such book certified under his hand, to any person requiring the same, on payment to him of the sum of two rupees, and such copies so certified, shall be received in evidence in all courts and in all summary proceedings, and shall be *primâ facie* proof of the proprietorship or assignment of copyright or license as therein expressed, but subject to be rebutted by other evidence.—Act XX, 1847, sec. iii.

19. If any person shall wilfully make or cause to be made any false entry in the registry book aforesaid, or shall wilfully produce or cause to be tendered in evidence, any paper falsely purporting to be a copy of any entry in the said book, he shall be guilty of a misdemeanour and shall be punished with imprisonment, with or without hard labour, for a term not exceeding three years.—Act XX, 1847, sec. iv.

20. It shall be lawful for the proprietor of copyright in any book published after the passing of the said Act of Parliament 3 & 4 Wm. IV, c. 85, to make entry in the registry book of the title of such book, the time of the first publication, and the name and place of abode of the publisher thereof, and the name and place of abode of the proprietor of the copyright of the said book, or of any portion of such copyright, in the form in that behalf given in the schedule to this Act annexed, upon payment of the sum of two rupees to the said secretary; and it shall be lawful for every such registered proprietor to assign his interest or any portion of his interests therein, by making entry in the said book of registry of such assignment, and of the name and place of abode of the assignee thereof, in the form given in that behalf in the said schedule, on payment of the like sum; and such assignment so entered shall be effectual in law to all intents and purposes whatsoever, without being subject to any stamp or duty, and shall be of the same force and effect as if such assignment had been made by deed.—Act XX, 1847, sec. v.

21. If any person shall deem himself aggrieved by any entry made under colour of this Act in the said book of registry, it shall be lawful for such person to apply by motion to the Supreme Court of Calcutta, or if the court shall not be then sitting to any judge of such court sitting in chambers, for an order that such entry may be expunged or varied, and that upon any such application to the said court, or to a judge as aforesaid, such court or judge shall make such order for expunging, varying, or confirming such entry, either with or without costs, as to such court or judge shall seem just, and the said secretary shall, on the production to him of any such order for expunging or varying any such entry, expunge or vary the same according to the requisition of such order.—Act XX, 1647, sec. vi.

22. If any person shall, after the passing of this Act, print or cause to be printed, either for

sale or exportation, any book in which there shall be subsisting copyright, without the consent in writing of the proprietor thereof, or shall have in his possession for sale or hire any such book so unlawfully printed without such consent as aforesaid. such offender, if he shall have so offended within the local limits of the jurisdiction of any of the courts of judicature established by Her Majesty's charter, shall be liable to a special action on the case in such court; and if he shall have so offended in any other part of the territories subject to the Government of the East India Company to a suit in the Zillah Court within the jurisdiction of which he shall have so offended, which shall and may be prosecuted in the same manner in which any other action of damages may be brought and prosecuted there; and if he shall have so offended in any such last-mentioned part of the territories subject to the Government of the East India Company in which there is no Zillah Court, to a suit in the highest local court exercising original civil jurisdiction in such part of the said territories.—Act XX, 1847, sec. vii.

23. After the passing of this Act, in any suit or action brought in any of the courts of judicature established by Her Majesty's charter, under the provisions of this Act, against any person for printing any such book for sale, hire, or exportation, or for selling, publishing, or exposing to sale or hire, or causing to be sold, published, or exposed to sale or hire, or for having in his possession for sale or hire any such book so unlawfully printed, the defendant on pleading thereto shall give to the plaintiff a notice in writing of any objections on which he means to rely on the trial of such action, and if the nature of his defence be that the plaintiff in such action was not the author or first publisher of the book in which he shall by such action claim copyright, or is not the proprietor of the copyright therein, or that some other person than the plaintiff was the author or first publisher of such book, or is the proprietor of the copyright therein, then the defendant shall specify in such notice the name of the person whom he alleges to have been the author or first publisher of such book, or the proprietor of the copyright therein, together with the title of such book, and the time when and the place where such book was first published; otherwise the defendant in such action shall not at the trial or hearing of such action be allowed to give any evidence that the plaintiff in such action was not the author or first publisher of the book in which he claims such copyright as aforesaid, or that he was not the proprietor of the copyright therein, and, at such trial or hearing no other objection shall be allowed to be made on behalf of such defendant than the objections stated in such notice, or that any other person was the author or first publisher of such book, or the proprietor of the copyright therein, than the person specified in such notice, or give in evidence in support of his defence any other book than one substantially corresponding in title, time, and place of publication, with the title, time, and place specified in such notice.—Act XX, 1847, sec. viii.

24. After the passing of this Act, in any such suit or action as last aforesaid, brought in any Zillah Court or other local court as aforesaid, the defendant shall state in his answer all such matters as he means to rely on, and which, by the last preceding paragraph, the defendant in any suit or action brought in any of the courts of judicature established by Her Majesty's charter, is required to give notice of in writing, otherwise such defendant shall be subject to the same consequences for any omission in his answer as a defendant is made subject to by the last preceding paragraph for any omission in his notice.—Act XX, 1847, sec. ix.

25. When any publisher or other person shall within the said territories before or at the time of the passing of this Act, but after the passing of the said Act of Parliament 3 and 4 Wm. IV, c. 85, have projected, conducted, and carried on, or shall hereafter project, conduct, or carry on, or be the proprietor of any encyclopædia, review, magazine, periodical work, or work published in a series of books or parts, or any book whatsoever, and shall have employed, or shall employ any persons to compose the same, or any volumes, parts, essays, articles, or portions thereof, for publication in, or as part of the same, and such work, volumes, parts, essays, articles, or portions shall have been, or shall hereafter be composed under such employment, on the terms that the copyright therein shall belong to such proprietor, projector, publisher, or conductor, and paid for by such proprietor, projector, publisher, or conductor, the copyright in every such encyclopædia, review, magazine, periodical work, and work published in a series of books or parts, and in every volume, part, essay, article, and portion so composed and paid for, shall be the property of such proprietor, projector, publisher, or conductor, who shall enjoy the same rights as if he were the actual author thereof, and shall have such term of copyright therein as is given to the authors of books in this Act; except only that in the case of essays, articles, or portions forming part of and first published in reviews, magazines, or other periodical works of a like nature, after the term of twenty-eight years from the first publication thereof respectively, the right of publishing the same in a separate form shall revert to the author for the remainder of the term given by this Act: Provided always, that during the term of twenty-eight years the said proprietor, projector, publisher, or conductor shall not publish any such essay, article, or portion, separately or singly, without the consent previously obtained of the author thereof, or his assigns; provided also, that nothing herein contained shall alter or affect the right of any person who shall have been or shall

be so employed as aforesaid to publish any such his composition in a separate form, who by any contract, expressed or implied, may have reserved or may hereafter reserve to himself such right; but every author reserving, retaining, or having such right, shall be entitled to the copyright in such composition, when published in a separate form according to this Act, without prejudice to the right of such proprietor, projector, publisher, or conductor as aforesaid.—Act XX, 1847, sec. x.

26. The proprietor of the copyright in any encyclopædia, review, magazine, periodical work, or other work published in a series of books or parts, shall be entitled to all the benefits of the registration in the office of the Secretary to the Government of India for the Home Department, under this Act, on entering in the said book of registry the title of such encyclopædia, review, periodical work, or other work published in a series of books or parts, the time of the first publication of the first volume, number, or part thereof, or of the first volume, number, or part first published after the passing of this Act, in any such work which shall have been published heretofore, and after the passing of the said Act of Parliament 3 and 4 Wm. IV, c. 85, and the name and place of abode of the proprietor thereof, and of the publisher thereof, when such publisher shall not also be the proprietor thereof.—Act XX, 1847, sec. xi.

27. All copies of any book wherein there shall be copyright, and of which entry shall have been made in the said registry-book, and which shall have been unlawfully printed without the consent of the registered proprietor of such copyright in writing under his hand first obtained shall be deemed to be the property of the proprietor of such copyright, and who shall be registered as such, and such registered proprietor shall, after demand thereof in writing, be entitled to sue for and recover the same, or damages for the detention thereof.—Act XX, 1847, sec. xii.

28. If the case be within the jurisdiction of any of the courts of judicature established by Her Majesty's charter, such registered proprietor shall be entitled to sue for and recover such copies, or damages for the detention thereof, in an action of detinue, from any party who shall detain the same, or to sue for and recover damages for the conversion thereof in an action of trover; and that if the case be within the jurisdiction of any Zillah Court, or other local court as aforesaid, the registered proprietor shall be entitled to sue for, and recover such copies, or damages for the detention or conversion thereof, in such form as is in use in the said zillah or other local courts for the recovery of specific personal property, or damages for the detention or conversion thereof.—Act XX, 1847, sec. xiii.

29. No proprietor of copyright in any book first published after the passing of the said Act of Parliament, 3 and 4 Wm. IV, c. 85, shall maintain, under the provisions of this Act, any action or suit at law or in equity, or any summary proceedings in respect of any infringement of such copyright, unless he shall, before commencing such action, suit, or proceeding, have caused an entry to be made in the book of registry, at the office of the said secretary, of such book, pursuant to this Act: Provided always, that the omission to make such entry shall not affect the copyright in any book, nor the right to sue or proceed in respect of the infringement thereof, except the right to sue or proceed in respect of the infringement thereof under the provisions of this Act.—Act XX, 1847, sec. xiv.

30. If any action or suit shall be commenced or brought in any of the courts of judicature established by Her Majesty's charter against any person or persons whomsoever for doing or causing to be done anything in pursuance of this Act, the defendant or defendants in such action may plead the general issue and give the special matter in evidence; and if upon such action a verdict shall be given for the defendant, or the plaintiff shall become nonsuited or discontinue his action, then the defendant shall have and recover his full costs, for which he shall have the same remedy as a defendant in any case by law hath in the said last-mentioned courts.—Act XX, 1847, sec. xv.

31. All actions, suits, bills, indictments, informations, and other criminal proceedings, for any offence which shall be committed against the Act, shall be brought, sued, and commenced within twelve calendar months next after such offence committed, or else the same shall be void and of none effect.—Act XX, 1847, sec. xvi.

32. Provided always, and it is enacted, that nothing in this Act contained shall affect, alter, or vary any right subsisting at the time of passing this Act, except as herein expressly enacted; and all contracts, agreements, and obligations made and entered into before the passing of this Act, and all remedies relating thereto, shall remain in full force, any thing herein contained to the contrary notwithstanding.—Act XX, 1847, sec. xvii.

33. SCHEDULES.

No. 1.

Original Entry of Proprietorship of Copyright of a Book.

| Time of making the Entry. | Title of Book. | Name of the Publisher and Place of Publication. | Name and Place of Abode of the Proprietor of the Copyright. | Date of First Publication. |
|---|---|---|---|---|
| | | | | |

No. 2.

Form of Entry of Assignment of Copyright in any Book previously registered.

| Date of Entry. | Title of Book. | Assigner of the Copyright. | Assignee of the Copyright. |
|---|---|---|---|
| | (Set out the Title of the Book, and refer to the page of the Registry Book in which the original Entry of the Copyright thereof is made.) | | |

APPRENTICES.

34. For better enabling children, and especially orphans and poor children brought up by public charity, to learn trades, crafts, and employments, by which, when they come to full age, they may gain a livelihood, it is enacted as follows.—Act XIX, 1850, Preamble.

35. Any child above the age of ten, and under the age of eighteen years, may be bound apprentice by his or her father or guardian to learn any fit trade, craft, or employment, for such term as is set forth in the contract of apprenticeship, not exceeding seven years, so that it be not prolonged beyond the time when such child shall be of the full age of twenty-one years, or in the case of a female, beyond the time of her marriage.—Act XIX, 1850, sec. i.

36. The age set forth in the contracts shall be evidence of the age of the child in all questions which arise as to the right of the master to the continuance of the service.—Act XIX, 1850, sec. ii.

37. Any magistrate or justice of the peace, may act with all the powers of a guardian under this Act, on behalf of any orphan, or poor child abandoned by its parents, or of any child convicted before him, or any other magistrate, of vagrancy, or the commission of any petty offence.—Act XIX, 1850, sec. iii.

38. An orphan or poor child, brought up by any public charity, may be bound apprentice by the governors, directors, or managers thereof, as his or her guardians for this purpose.—Act XIX, 1850, sec. iv.

39. Any such boy may be bound as an apprentice in the sea service to any of Her Majesty's subjects, being the owner of any registered ship belonging to, and trading from any port in the territories under the Government of the East India Company, which has been declared to be a registering port under Act X, 1841, to be employed in any such ship, the property of such person, commanded by a British subject, and, while so employed, to be taught the craft and duty of a seaman.—Act XIX, 1850, sec. v.

40. Any such boy may be bound in like manner for sea service in any ship of the East

India Company belonging to any such port, commanded by a British subject; in which case the contract shall be made with the master attendant at such port, or any officer appointed to represent the East India Company in this behalf, who shall appoint the ship in which such apprentice is to serve from time to time.—Act XIX, 1850, sec. vi.

41. The master or commander of any ship in which an apprentice bound to the sea service shall be appointed to serve by the party to whom he is bound, shall be deemed the agent of such party for the purpose of this Act.—Act XIX, 1850, sec. vii.

42. Every contract of apprenticeship shall be in writing, according to the form given in the Schedule (A) annexed to this Act, or to the like effect, which shall set forth the conditions agreed upon, particularly specifying the age of the apprentice, the term for which he is bound, and what he is to be taught.—Act XIX, 1850, sec. viii.

43. Every such contract shall be signed by the person to whom the apprentice is bound, and by the person by whom he is bound, and by the apprentice, when he is of the age of fourteen years or more at the time of binding; but when the apprentice is bound by the governors, directors, or managers of a public charity, the signature of two of them, or of their secretary or officer, shall be sufficient on behalf of the persons binding the apprentice.—Act XIX, 1850, sec. ix.

44. No such contract shall be valid unless it be executed in the manner aforesaid, nor until it has been deposited in the office of the chief magistrate of the place or district where it has been executed, or if the apprentice is bound to the sea service, in the office of the person appointed under Act X, 1841, to make registry of ships at the port where the apprentice is to begin his service; and the person in whose office any such contract is deposited shall give to each of the parties a copy thereof, certified under his hand, which certified copies shall be received as evidence of the contract, without formal proof of the handwriting of the magistrate or registering officer.—Act XIX, 1850, sec x.

45. The terms of service may be changed at any time during the apprenticeship, or the contract may be determined with the consent of both parties to the contract, or their personal representatives, and with the consent of the apprentice, if he is above the age of fourteen years; provided that the changes agreed to, or the termination of the contract shall be expressed in writing on the original contract. with the signature of the proper parties, according to paragraph 42; and the magistrate or registering officer shall thereupon make, under his hand, corresponding endorsements on the office copies, which shall be brought to him at the same time for that purpose.—Act XIX, 1850, sec. xi.

46. The master of any apprentice bound under this Act may, with the consent of the person by whom he was bound, and with the consent of the apprentice, if he is above the age of fourteen years, assign such apprentice to any other person who is willing to take him for the residue of his apprenticeship, and subject to the conditions thereof; provided that such person shall, by endorsement under his own hand on the contract, declare his acceptance of such apprentice, and acknowledge himself bound by the agreements and covenants therein mentioned, to be performed on the part of the master, and that the consent of the other parties aforesaid shall be expressed in writing on the same, and signed by them respectively: and every such assignment shall be certified on the office copies of the contract, under the hand of the magistrate or registering officer, according to the form given in schedule (B), annexed to this Act.—Act XIX, 1850, sec. xii.

47. Upon complaint made to any magistrate in the said territories, by or on behalf of any apprentice bound under this Act, of refusal or neglect to provide for him, or to teach him according to the contract of apprenticeship, or of cruelty, or other ill-treatment by his master, or by the agent under whom he shall have been placed by his master, the magistrate may summon the master or his agent, as the case may be, if he shall be within his jurisdiction, to appear before him at a reasonable time, to be stated in the summons, to answer the complaint: and at such time, whether the master or his agent be present or not (service of the summons being proved), may examine into the matter of the complaint; and, upon proof thereof, may cancel the contract of apprenticeship, and assess upon the offender, whether he shall be the master or his agent, a reasonable sum for behoof of the apprentice, not exceeding four times the amount of the premium paid upon the binding; or if no premium, or a less premium than fifty rupees was paid, not exceeding two hundred rupees; and if the offender shall not pay the sum so assessed, may levy the same by distress and sale of his goods and chattels, and if the offender shall not be the master but his agent, by distress and sale of the goods and chattels of the master also.—Act XIX, 1850, sec. xiii.

48. No contract of apprenticeship shall be cancelled, nor shall any master or his agent be liable to any criminal proceeding on account of such moderate chastisement for misbehaviour, given to any apprentice by his master or the agent of his master, as may lawfully be given by a father to his child; and the provision for enabling the contract of apprenticeship to be cancelled, shall not bar any criminal proceeding against any master or his agent for an assault or other offence committed against his apprentice, for which he would be liable to be punished had it been against his child; whether

or not any proceedings be taken for cancelling the contract of apprenticeship.—Act XIX, 1850, sec. xiv.

49. Upon complaint made to any magistrate, by or on behalf of the master of any apprentice bound to him under this Act, of any ill-behaviour of such apprentice, or if such apprentice shall have absconded, the magistrate may issue his warrant for apprehending such apprentice, and may hear and determine the complaint, and punish the offender by an order for keeping the offender, if a boy, in confinement in any debtors' prison, or other suitable place, not being a criminal gaol, for any time not exceeding one month, of which one week may be in solitary confinement, during which time such allowance shall be made for his subsistence by the master or his agent, as the magistrate shall order; and if the offender be a boy of not more than fourteen years of age, may order him to be privately whipped: or, if the offender be a girl, or in the case of any boy, the magistrate deem any such punishment unfit, he may pass an order empowering the master of the apprentice or his agent to keep the offender in close confinement in his own house, or on board the vessel to which he belongs, upon bread and water, or such other plain food as may be given without injury to the health of the apprentice, for a period not exceeding one month.—Act XIX, 1850, sec. xv.

50. Upon complaint of wilful and repeated ill-behaviour on the part of the apprentice, and on the demand of the master, the magistrate may order the contract of apprenticeship to be cancelled, whether or not the charge is proved; but only with the consent of the apprentice and of his father or guardian, if the charge is not proved: and such cancelling shall be with or without refund of the whole or part of any premium that may have been paid to the master on binding such apprentice, as to the magistrate seems fit on consideration of the case; and all sums so refunded shall be applied, under the direction of the magistrate, for behoof of the apprentice.—Act XIX, 1850, sec. xvi.

51. The magistrate may order any sum recovered for behoof of the apprentice, on cancelling the contract, to be either laid out in binding him to another master, or otherwise for his benefit, or to be paid to the person by whom any premium was paid when he was bound apprentice.—Act XIX, 1850, sec. xvii.

52. No magistrate shall entertain a complaint on the part of a master against an apprentice under this Act, unless it be brought within one month after the cause of complaint arose; or if the cause of complaint arose on board ship during a voyage, within one month after the arrival thereof at a port or place in the said territories: and no magistrate shall entertain a complaint on the part of an apprentice against his master, or the agent of his master, under this Act, unless it be brought within three months after the cause of complaint arose; or if the cause of complaint arose on board ship during a voyage, within three months after the arrival thereof at a port or place in the said territories.—Act XIX, 1850, sec. xviii.

53. If the master of any apprentice shall die before the end of the apprenticeship, the contract of apprenticeship shall be thereby determined; and a proportionate part, corresponding to the unexpired portion of the term, of any premium which shall have been paid to such master on the binding of the apprentice to him, shall be returned by the executors or administrators out of the estate of the deceased to the person or persons who shall have paid the same; unless the executors or administrators of the deceased master shall continue the business in which such apprentice shall have been employed, and shall, within three months from the death of the late master, make offer in writing to keep the apprentice on the terms of the original contract, in which case the estate of the deceased shall be discharged from all liabilities on account of such premium.—Act XIX, 1850, sec. xix.

54. If such offer to keep the apprentice shall be made as aforesaid, the same shall be fully expressed and certified by the executors and administrators on the original contract of apprenticeship, and also on the office copies thereof, by the magistrate or registering officer, and the apprentice shall be bound to the executors or administrators so keeping him for the remaining term of his apprenticeship.—Act XIX, 1850, sec. xx.

55. Any apprentice bound under this Act whose master shall die during the apprenticeship, shall be entitled to maintenance for three months from and after the death of his master, out of the assets left by him; provided that during such three months such apprentice shall continue to live with, and serve as an apprentice, the executors or administrators of such master, or such person as they shall appoint.—Act XIX, 1850, sec. xxi.

56. The apprentice of any person against whom a commission of bankruptcy shall be issued, or who shall be adjudged to have committed an act of insolvency during the apprenticeship, shall be discharged from all obligation under the contract of apprenticeship; and, if any premium was paid on binding him as an apprentice, he, or the person by whom he was bound, shall be entitled to claim the amount thereof as a debt against the estate of the bankrupt or insolvent.—Act XIX, 1850, sec. xxii.

57. For the purposes of this Act, all British subjects, wherever or of whatever parents born, as well as other persons in the territories under the Government of the East India Company, without

the town of Calcutta, shall be amenable to the jurisdiction of the courts and magistrates of the East India Company.—Act XIX, 1850, sec. xxiii.

58. An appeal shall lie from any order passed by any magistrate without the said town and island to the Court of Session to which such magistrate is subordinate, provided the appeal is made within one month from the date of the order.—Act XIX, 1850, sec. xxiv.

59. In this Act the words "master," "owner," "person," and the pronoun "he," shall be understood to include several persons as well as one person, and females as well as males, and bodies corporate as well as individuals, unless there is something in the context repugnant to such construction.—Act XIX, 1850, sec. xxv.

60. SCHEDULE (A).

FORM OF AGREEMENT.

This agreement made the day of , in the year between A. B., of , and C. D., of , witnesseth that the said A. B. doth this day bind E. F., a boy (or girl) of the age of years completed, son (or daughter) of the said A. B., (or otherwise describing the relation in which A. B. and E. F. stand), to dwell with and serve the said C. D as an apprentice, from this day forth for years, (in the case of a girl add, or until the time of her marriage, which shall first happen), during all which term the said apprentice shall duly and faithfully serve the said C. D. according to his (or her) skill and ability in all lawful business, and demean and behave himself (or herself) honestly, orderly, and obediently, in all things towards the said C. D. and his (or her) family. And the said C. D., for himself (or herself), and his (or her) executors and administrators, in consideration (of the premium* or sum of paid by the said A. B. to the said C D., the receipt whereof the said C. D. hereby acknowledges, and) of the faithful service of the said E F., doth covenant and agree with the said A. B., his (or her) executors and administrators, that he (or she) will teach or cause to be taught to the said E. F., in the best way and manner that he (or she) can, the trade (craft or employment) of a , during the said term; and will also, during the said term, find and allow unto the said apprentice good, wholesome, and sufficient food, clothes, lodging, washing, and all other things necessary, fit, and reasonable for an apprentice; (and further, here insert any special covenants.)

In witness whereof the parties have hereunto set their hands and seals, the day and year above written.

A. B. (L.S)

C. D. (L.S.)

* If there is no premium, the words between brackets may be omitted.

61. SCHEDULE (B).

FORM OF ORDER OF ASSIGNMENT.

(To be endorsed on the agreement.)

Be it known to all men that on the day of , in the year personally appeared before G. H., magistrate of , C. D., of , with E F., his (or her) apprentice, and J. K., of , and desired that the agreement of apprenticeship, whereby the said E. F. was bound to the said C. D., might be assigned and made over to the said J. K., and the said G. H., having satisfied himself, by personal examination of the said E. F., and by other lawful ways and means, that such assignment is for the benefit of the said E. F., and is made with the consent of (the said E. F.,* and of) all persons whose consent thereunto by law is required, doth allow such assignment; and the contract of apprenticeship whereby the said E. F. was on the day of in the year , bound to the said C. D., as an apprentice to learn the trade (craft or employment) of a , shall henceforth endure unto the end of the said term, as if the said J. K. had been originally party to the said deed, and had executed the same, in the place and stead of the said C. D., and shall be bound, for himself (or herself), his (or her) executors or administrators, to fulfil the covenants by the said C. D., to be performed, and the said E. F. shall henceforth be bound unto the said J. K., in like manner as he (or she) was by the said agreement bound unto the said C. D.

C. D. E. F. J. K.

In witness whereof the said C. D., E. F., and J. K., have hereunto set their hands before me the day and year above written.

G. H., magistrate

* If E. F. is not above the age of fourteen years, the words between brackets may be omitted.

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NATURALIZATION OF ALIENS.

62. Any person whilst actually residing in any part of the territories under the Government of the East India Company may present a memorial to Government, praying that the privileges of naturalization may be conferred upon him.—Act XXX, 1852, sec. i.

63. Such memorial shall state, to the best of the knowledge and belief of the memorialist, his age, place of birth, place of residence, profession, trade or occupation, the length of time during which he has resided within the said territories, that he is settled in the said territories, or is residing within the same with intent to settle therein, and any other particulars which the Government may require to be stated therein, and such memorial shall be in writing and signed by the memorialist, and accompanied by an affidavit sworn by him, verifying the truth of the statements contained therein.—Act XXX, 1852, sec. ii.

64. The memorial shall be considered by the Government to whom it shall be presented, who shall inquire into the circumstances of the case, and may require such evidence, either by affidavit or otherwise, as they may deem proper, in addition to the before-mentioned affidavit of the memorialist, to prove the truth of the statements contained in such memorial.—Act XXX, 1852, sec. iii.

65. The Government may, if they shall think fit, issue a certificate in writing reciting such of the contents of the memorial as they may consider to be true and material, and granting to the memorialist all the rights, privileges, and capacities of naturalization under this Act, except such rights, privileges, or capacities, if any, as may be specially excepted in such certificate.—Act XXX, 1852, sec. iv.

66. The certificate shall be delivered to the memorialist, and a copy or duplicate thereof, together with the memorial upon which the same shall be obtained, and any affidavit which may accompany such memorial or be produced in support thereof, shall be filed by the secretary to the Government, or such other officer as the Government may direct; and such secretary or officer shall keep an alphabetical list of all persons who may be naturalized by such Government.—Act XXX. 1852, sec. v.

67. If any material statement contained in such memorial shall be false, the Government may, if they think fit, by an order in writing, declare the certificate issued upon such memorial to be null and void to all intents and purposes, except such purposes, if any, as may be specially excepted in such order; and from and after such order all the rights, privileges, and capacities derived through such certificate shall cease to exist.—Act XXX, 1852, sec. vi.

68. Such fees shall be payable in respect of the proceedings hereby authorized as shall be fixed by the Government.—Act XXX, 1852, sec. vii.

69. Upon obtaining such certificate, and taking and subscribing the oath as hereinafter prescribed, the memorialist shall within the said territories under the Government of the East India Company be deemed a natural born subject of Her Majesty as if he had been born within the said territories, and shall be entitled within the said territories to all the rights, privileges, and capacities of a subject of Her Majesty born within the said territories, except such rights, privileges, and capacities, if any, as may be specially excepted in such certificate.—Act XXX, 1852, sec. viii.

70. Nothing in this Act contained shall be construed so as to deprive the courts of the East India Company of jurisdiction over any such naturalized person, or to give to the courts of Her Majesty any jurisdiction over any such person not otherwise subject to such jurisdiction.—Act XXX, 1852, sec. ix.

71. Within sixty days from the day of the date of such certificate, the memorialist named in such certificate shall take and subscribe the oath contained in the schedule annexed to this Act.—Act XXX, 1852, sec. x.

72. Such oath, as well as any other oath or affidavit required by this Act, may be administered by any magistrate or justice of the peace within the limits of his jurisdiction, or by any other person to be appointed for that purpose by Government, and the person who shall administer the oath mentioned in the schedule to this Act annexed shall grant to the memorialist a certificate in writing of his having taken and subscribed such oath, and of the date of his taking and subscribing the same, and shall forward to the Government the oath so taken and subscribed, together with a duplicate of such certificate, which oath and duplicate certificate shall be filed and kept with the memorial.—Act XXX, 1852. sec. xi.

73. The word "Government" in this Act shall be deemed to mean the person or persons for the time being lawfully entitled to administer the executive Government in that part of the said territories in which the memorialist shall reside at the time of presenting such memorial. The word "magistrate" shall include any person lawfully exercising the powers of a magistrate; and words denoting the masculine gender shall include the feminine.—Act XXX, 1852. sec. xii.

74. In every case in which the word "oath" or "affidavit" is used in this Act, an affirmation to the same effect as the oath or affidavit required shall be sufficient in cases where the person required to make such oath or affidavit shall be a person allowed by law to affirm in civil cases, and in every such case such affirmation shall be made before the person authorised to administer the oath, and the word "oath" or "affidavit" wherever used in this Act shall include such affirmation. —Act XXX, 1852, sec. xiii.

75. SCHEDULE.

OATH

I, A B, [here set the description of the party] do swear [or being one of the persons allowed by law to affirm in civil cases, do affirm] that I will be faithful and bear true allegiance to the Sovereign of the United Kingdom of Great Britain and Ireland, and of these territories as dependent thereon, and that I will be true and faithful to the East India Company

(Signed) A B

# MISCELLANEOUS.

## COINAGE AND MINTS.

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# MISCELLANEOUS.

## COINAGE AND MINTS.

### GENERAL RULES.

1. To guard as far as possible against the counterfeiting, clipping, drilling, filing, defacing, or debasing the coin, the edges of both the gold and silver coin are to be milled, and the dies are to be made of the same size as the coin, so that the whole of the impression may appear upon the surface of it.—Reg. XXXV, 1793, sec. vii.

2. Persons charged with counterfeiting, clipping, filing, drilling, defacing, or debasing the gold or silver coin, are to be committed to the Criminal Courts, and punished according as the law may direct.—Reg. XXXV, 1793, sec. xii.

NOTE.—See "CRIMINAL JUDICATURE," Specific Offences, paragraphs 82, 83, and 97 to 100.

3. All officers, agents, gomastahs, or others employed in the collection or payment of the public revenue or the rents of individuals, or the manufacture of salt or opium, and all proprietors and farmers of land, dependent talookdars, under-farmers, and ryots, and all persons whosoever, are prohibited affixing any mark whatever to the gold or silver coin.—Reg. XXXV, 1793, sec. xiii.

4. No duty is to be charged on the recoinage of old or light gold mohurs, or half or quarter gold mohurs, coined at the Calcutta mint since the 20th March, 1769, nor on the recoinage of any gold mohurs, or half or quarter gold mohurs, which may be coined in the mints at Patna, Dacca, Moorshedabad, or Calcutta, after this date.—Reg. XXXV. 1793, sec. xxv.

5. The following registers are to be kept open at the mint of Calcutta, for public inspection.—Reg. XXXV, 1793, sec. xxvii, cl. 1.

6. A register of unassayed bullion delivered into the mint, specifying the quantity delivered, the date on which it was received, and the name of the proprietor.—Reg. XXXV, 1793, sec. xxvii, cl. 2.

7. A register of bullion assayed and refined, specifying the date on which it was assayed and the date on which it was refined, the name of the proprietor, and the produce in rupees or gold mohurs, together with the date of the certificate granted for the produce, and the date on which such certificate was discharged.—Reg. XXXV, 1793, sec. xxvii, cl. 3.

8. Collectors of the revenue, salt agents, the mint-master at Calcutta, and their respective officers, are to be liable to be sued for damages in the Zillah or City Court to which they may be amenable, for any breach of this Regulation, or any other Regulations which may be enacted respecting the coin.—Reg. XXXV, 1793, sec. xxviii.

9. The mint-master at Calcutta is required to furnish the Board of Revenue, for the use of the Collectors, with stamped metal weights of such weight each as may be required by them; and all receipts and payments at the public treasuries are to be regulated agreeably to such standard weights.—Reg. LXI, 1795, sec. v.

10. It shall be competent to the Governor-General in Council, in his executive capacity, to direct the coining and issuing of all coins authorized by paragraphs 20 and 25; to prescribe the devices and inscriptions of the copper coins issued from the mints, and to establish, regulate, and abolish mints,* any law hitherto in force to the contrary notwithstanding.—Act XVII, 1835, sec. x.

### COINAGE OF GOLD AND SILVER BULLION.

11. All silver bullion or coin (not being struck at the Calcutta mint) which may be delivered into that mint for coinage, shall be subject to a duty at the rate of two per cent. on the produce

* Under this power all mints, except that of Calcutta, have been abolished.

of such bullion or coin, in rupees; and the amount of the said duty shall be accordingly deducted from the return to be made to the proprietor.—Reg. XIV, 1818, sec. iii, cl. 2.

12. Individuals who may be desirous of it shall be at liberty to have their bullion or coin converted into halves or quarters of the rupee, on condition of paying a duty at the rate of one per cent. in addition to the duty of two per cent. established by the preceding paragraph.—Reg. XIV, 1818, sec. iii, cl. 3.

13. Should, however, the coin brought to the mint for that purpose consist of Calcutta siccas of the former weight and standard, the proprietors shall only be subject to the additional duty of one per cent. and not to the duty on all other coin and bullion.—Reg. XIV, 1818, sec. iii, cl. 4.

14. On delivery of the silver bullion or coin into the mint, the mint-master shall grant to the proprietor a receipt, entitling him to a certificate from the assay-master, for the net produce of such bullion or coin, payable at the general treasury at Calcutta. The Governor-General in Council will, from time to time, determine the periods for which the certificates shall run; such determination to be made public by advertisement in the Government Gazette, and by a notice to be affixed in a conspicuous part of the mint to which the order may refer.—Reg. XIV, 1818, sec. iii, cl. 5; Reg. V, 1819, sec. iii.

15. A duty shall be levied at the rate of two rupees per cent. at the Calcutta mint, on the produce of all gold bullion and on all gold coin, with the exception of the mohurs, half mohurs, and quarter mohurs, mentioned in paragraph 4, on the recoinage of which no duty shall be levied.—Reg. II, 1812, sec. v, cl. 2; Reg. V, 1819, sec. v.

16. For all gold bullion or coin equal to, or better than the standard prescribed for the gold mohur by Regulation XIV, 1818, which may be brought to the mint for coinage, a number of the new gold mohurs, or of the halves and quarters of such mohurs, equal to the produce of such bullion, shall be returned to the proprietor, after deducting the duty of two per cent.—Reg. XIV, 1818, sec. v, cl. 2; Reg. V, 1819, sec. v.

17. All gold bullion or gold coin being under the above specified standard, which may be delivered into the Calcutta mint for coinage, shall in addition to the duty of two rupees per cent., be subject to a charge on account of the loss and expense of refining, together with the established deduction on account of the inferiority of standard.—Reg. XIV, 1818, sec. v, cl. 3; Reg. V, 1819, sec. v.

18. The mint-master, on the delivery of gold bullion or coin into the mint of Calcutta for coinage, shall grant to the proprietor a receipt, entitling him to a certificate from the assay-master, for the net produce of such bullion or coin, payable at the general treasury at Calcutta. The Governor-General in Council will from time to time determine the periods for which the certificates shall run; such determination to be made public by advertisement in the Government Gazette, and by a notice to be affixed in a conspicuous part of the mint to which the order may refer.—Reg. II, 1812, sec. v, cl. 5; Reg. V, 1819, sec. iii.

19. The proprietor of any gold or silver bullion or coin, brought to the Calcutta mint for coinage, who may be dissatisfied with the assay-master's report of its value, shall be at liberty to withdraw such bullion or coin without being subject to the duties on coinage established by the present rules.—Reg. II, 1812, sec. vi.

### GOLD COIN.

20. The undermentioned gold coins only shall henceforth be coined at the mints within the territories of the East-India Company.—Act XVII, 1835, sec. vi.

*First.* A gold mohur or 15-rupee piece of the weight of 180 grains troy, and of the following standard, viz.:

$\frac{11}{12}$ or 165 grains of pure gold,
$\frac{1}{12}$ or 15 grains of alloy.

*Second.* A five-rupee piece, equal to a third of a gold mohur.

*Third.* A ten-rupee piece, equal to two-thirds of a gold mohur.

*Fourth.* A thirty-rupee piece, or double gold mohur; and the three last-mentioned coins shall be of the same standard with the gold mohur, and of proportionate weight.—Act XVII, 1835, sec. vii.

21. These gold coins shall bear on the obverse the head and name of the reigning sovereign of the United Kingdom of Great Britain and Ireland, and on the reverse the designation of the coin in English and Persian, and the words "East-India Company" in English, with such embellish-

ment as shall from time to time be ordered by the Governor-General in Council, which shall always be different from that of the silver coinage.—Act XVII, 1835, sec. viii.

22. So much of the preceding paragraph as directs that certain coins issued from the mints within the territories of the East-India Company shall bear on the obverse the head of the reigning Sovereign of the United Kingdom of Great Britain and Ireland, shall be suspended till the Governor-General of India in Council shall, by an order in council, declare those parts of the said paragraph to be again in force.—Act XXXI, 1837, sec. i.

23. Till the said Governor-General in Council shall make such an order in council as is aforesaid, the said coins shall bear on their obverse the head of his late Majesty, William the Fourth.—Act XXXI, 1837, sec. ii.

24. No gold coin shall henceforward be a legal tender of payment in any of the territories of the East India Company.—Act XVII, 1835, sec. ix.

NOTE.—See paragraph 33.

SILVER COIN.

25. From the 1st day of September, 1835, the under-mentioned silver coins shall be coined at the mints within the territories of the East India Company: a rupee, to be denominated the Company's rupee; a half rupee, a quarter rupee, and a double rupee; and the weight of the said rupee shall be 183 grains troy, and the standard shall be as follows:

$\frac{11}{12}$ or 165 grains of pure silver,
$\frac{1}{12}$ or 15 grains of alloy,

and the other coins shall be of proportionate weight, and of the same standard.—Act XVII, 1835, sec. i.

26. From the 1st January, 1838, the Calcutta sicca rupee shall cease to be a legal tender in discharge of any debt, but shall be received by the collectors of land revenue, and at all other public treasuries, by weight, and subject to a charge of one per cent. for re-coinage.—Act XIII, 1836, sec. i.

27. It shall be lawful for the Governor-General of India in Council, in his executive capacity, to direct the coinage and issue of any silver coins, of a value represented in even annas or sixteenths of the Company's rupee, provided they be of the same standard as that prescribed for such rupee by paragraph 25, and of proportionate weight.—Act XXI, 1838, sec. i.

28. These coins shall bear on the obverse the head and the name of the reigning sovereign of the kingdom of Great Britain and Ireland, and on the reverse the designation of the coin in English and Persian, and the words "East India Company" in English, with such embellishment as shall, from time to time, be ordered by the Governor-General in Council.—Act XVII, 1835, sec. ii.

NOTE.—See paragraphs 22 and 23.

29. The Company's rupee, half rupee, and double rupee, shall be a legal tender in satisfaction of all engagements, provided the coin shall not have lost more than two per cent. in weight, and provided it shall not have been clipped or filed, or have been defaced otherwise than by use.—Act XVII, 1835, sec. iii.

30. The said rupee shall be received as equivalent to the Bombay, Madras, Furruckabad, and Sonat rupees, and to fifteen-sixteenths of the Calcutta sicca rupee; and the half and double rupee respectively shall be received as equivalent to the half and double of the above-mentioned Bombay, Madras, Furruckabad, and Sonat rupees, and to the half and double of fifteen-sixteenths of the Calcutta sicca rupee.—Act XVII, 1835, sec. iv.

31. The Company's quarter rupee shall be a legal tender only in payment of the fraction of a rupee.—Act XVII, 1835, sec. v.

32. Provided, that if in any contract for the payment of Calcutta sicca rupees it shall have been specially stipulated that if payment be made in the territories of the Madras, Bombay, or Agra presidency, it shall be made in the rupee now current in those presidencies respectively, at a different rate from that above provided with reference to the Calcutta sicca rupee, the contract shall be satisfied by payment, within those presidencies, of Company's rupees of the amount of Furruckabad, Madras, or Bombay rupees so especially stipulated; provided also, that if payment of the principal or interest of the public debt be made for the convenience of creditors at any public treasury other than as stipulated in the notes and engagement of the Government, it shall be competent to the Government to make such payments at the same exchange as heretofore.—Act XVII, 1835, sec. vi.

33. The provisions of paragraphs 21 to 23 and 28, applicable to the devices, inscriptions, and embellishments of the coins coined and issued by virtue of paragraphs 20 and 25, shall be

applicable to the coins which may be coined and issued by virtue of paragraph 27.—Act XXI, 1838, sec. ii.

NOTE.—The following two Regulations are in great measure superseded, but it seemed necessary to retain the first (Reg. V, of 1821) as determining an important point, namely, how the assessment is to be adjusted in the cases of lands in Benares permanently settled in Gohurshahee and Tirsoolee rupees. The exchange in such cases was calculated upon the standard fixed for the Furruckabad rupees by Regulation XI, 1819, since altered by Regulation VII, 1833. This latter Regulation is the second of the two retained, as it fixes the standard of the Furruckabad rupee, which is nowhere else done; and that rupee is the same in standard as the Company's rupee, now declared the only one current by Act XVII, 1835.

34. It is enacted by Regulation XI, 1819, that the Furruckabad rupees shall be received within the province of Benares at par with the Benares rupees; but no provision has been made for regulating the exchange in account between the said rupees and the Gohurshahee and Tirsoolee rupees, in which it appears that the engagements of many malguzars are expressed; moreover, the batta to be taken from such malguzars has hitherto been arbitrarily fixed, and considerable abuses have consequently prevailed. The intrinsic value of the coins having been now ascertained by a careful assay, whence it has appeared that the rupee denominated Chorah Gohurshahee exceeds, and the other descriptions of Gohurshahee rupees equal, the Furruckabad rupee in value, and that the latter coin is 3. 11. 7. per cent. superior in value to the Tirsoolee rupee, the revenue officers have been directed to adjust their demands on the said malguzars according to the results of the assay, subject to the general principle of receiving the Furruckabad rupee at par with the Benares rupee, and without any demand of batta on account of its inferiority in value below the local currency. In pursuance of the orders already issued in this matter, and for the purpose of making generally known the results of the assays, and of removing all doubts as to the rate at which rupees denominated Gohurshahee and Tirsoolee are to be valued, the following rules have been enacted, to be in force from the date of their promulgation.—Reg. V, 1821, Preamble.

35. The Benares and Furruckabad rupees, which are now received as of equal value in all payments of the Government revenue, shall be paid and received in lieu of the Gohurshahee rupees, and at par with the same, in liquidation of all demands on any malguzar or other person who may have entered into engagements with Government, expressed in any description of Gohurshahee rupee. The Gohurshahee rupee shall be held and considered as of equal value with the Furruckabad and Benares rupees in the adjustment of all claims or demands on account of revenue arising out of such engagements as aforesaid, which may be suspended or unsettled; and no malguzar or other person aforesaid shall be entitled to any deduction or allowance, by way of batta or the like, on account of payments made or tendered by him in Benares or Furruckabad rupees, in fulfilment of engagements expressed in Gohurshahee rupees: provided always, that in cases in which such deduction or allowance may have been made, and receipts granted or credit given accordingly, nothing in this Regulation shall be understood to authorize the officers of Government or individuals to make any demand on account of such deduction or allowance, nor shall any such demand be held valid.—Reg. V, 1821, sec. ii.

36. All malguzars or other persons whose engagements are expressed in Tirsoolee rupees, shall be allowed a batta of rupees 3. 11. 7. per cent. on payments made in Furruckabad or Benares rupees; that is to say, on the payment of rupees 96. 4. 5. of the Furruckabad or Benares currency, the said persons shall have credit for 100 Tirsoolee rupees, in liquidation of demands under engagements expressed in that description of rupee: provided always, that all suspended or unsettled demands or accounts shall be adjusted on the same principle, but no fresh demands shall be admitted on account of any deduction or allowance made in the settlement of accounts already adjusted.—Reg. V, 1821, sec. iii.

37. All mehauls held in farm within the province of Benares, whereof there may be no ancient proprietors forthcoming entitled to re-enter subject to the payment of the jumma already fixed, being open to re-settlement on the death of the farmers, it is hereby declared and enacted, that the collectors within the said province shall hereafter adjust the assessment of such estates, with reference to the assets estimated in Furruckabad rupees, and that the engagements of the malguzars of such estates shall be uniformly expressed in that currency. In like manner, in cases wherein the ancient zemindars may be entitled to re-enter, subject to the payment of the jumma already fixed, the said jumma, if expressed in Gohurshahee or Tirsoolee rupees, shall be converted into Furruckabad rupees at the rates hereinbefore specified, and the engagements of the proprietors shall be expressed in the last-mentioned currency.—Reg. V, 1821, sec. iv.

38. The use of the sicca weight of 179·666 grains, hitherto employed for the receipt of bullion at the mint, being in fact the weight of the Moorshedabad rupee of the old standard, which was assumed as the sicca currency of the Honourable Company's provinces of Bengal, Behar, and Orissa, shall be discontinued; and in its place the following unit, to be called the Tola, shall be introduced, which, from its immediate connexion with the rupee of the Upper Provinces, and of Madras and Bombay, will easily and speedily become universal through the British territories.

The tola or sicca weight to be equal to one hundred and eighty grains troy, and the other denominations of weight to be derived from this unit, according to the following scale, viz.—

8 Ruttees = 1 Masha = 15 troy grains.
12 Mashas = 1 Tola = 180 ditto.
80 Tolas (or sicca weight) = 1 seer = 2½ lbs. troy.
40 Seers = 1 Mun, or Bazar Maund = 100 lbs. troy.

—Reg. VII, 1833, sec. iv.

39. The calculation of produce of bullion at the mints of Saugor* and Calcutta will be made in accordance with the system hereinbefore set forth, subject to the duty or seignorage of two per cent. already provided by the mint regulations; and in case of bullion below dollar standard, or more than 6 dwts. worse, subject to a further mint charge to cover the expense of refining it up to standard purity, it being optional with the proprietor of the bullion to refine it out of the mint, or to pay the refinage charge according to established rates. A table of the produce of silver bullion, calculated according to the scale of tola weight, and the modification of the sicca and Furruckabad rupee herein prescribed, is annexed to this Regulation.—Reg. VII, 1833, sec. v.

40. The system of weights described in paragraph 38 is to be adopted at the mints and assay offices of Calcutta and Saugor respectively,* in the adjustment and verification of all weights for Government or public purposes, sent thither for examination.—Reg. VII, 1833, sec. vi.

* There is now no mint at Saugor.

41. TABLES.

TABLE of the Intrinsic or Assay Produce of Silver Bullion in Furruckabad and Calcutta Rupees, to be used at the Mints of Calcutta and Saugor, from the promulgation of this Regulation.

| Weight of Bullion in Tolas, or New Sicca Weight. | ASSAY REPORT. | Touch, or Fine Silver in 100 parts. | Produce in Furruckabad or Sonat Rupees. | Weight of Bullion in Tolas, or New Sicca Weight. | ASSAY REPORT. | Touch, or Fine Silver, in 100 Parts. | Produce in Furruckabad or Sonat Rupees. |
|---|---|---|---|---|---|---|---|
| 100 .. .. | 20 dwts. Br. | 100·000 | 109·091 | 100 .. .. | ½ dwts. Wo. | 91·458 | 99 773 |
| — .. .. | 19⅞ — .. | 99 792 | 108·864 | — .. .. | 1 — .. | 91·250 | 99·545 |
| — .. .. | 19 — .. | 99·583 | 108·636 | — .. .. | 1⅛ — .. | 91·042 | 99·318 |
| — .. .. | 18⅞ — .. | 99 375 | 108·409 | — .. .. | 2 — .. | 90·833 | 99 091 |
| — .. .. | 18 — .. | 99·167 | 108·182 | — .. .. | 2½ — .. | 90·625 | 98·864 |
| — .. .. | 17⅞ — .. | 98·958 | 107·955 | — .. .. | 3 — .. | 90·417 | 98·636 |
| — .. .. | 17 — .. | 98·750 | 107·727 | — .. .. | 3½ — .. | 90·208 | 98·409 |
| — .. .. | 16⅞ — .. | 98·542 | 107·500 | — .. .. | 4 — .. | 90·000 | 98·182 |
| — .. .. | 16 — .. | 98·333 | 107·273 | — .. .. | 4½ — .. | 89·792 | 97·955 |
| — .. .. | 15⅞ — .. | 98·125 | 107·045 | — .. .. | 5 — .. | 89·583 | 97·727 |
| — .. .. | 15 — .. | 97 917 | 106·818 | — .. .. | 5½ — .. | 89·375 | 97·500 |
| — .. .. | 14⅞ — .. | 97·708 | 106·591 | — .. .. | 6 — .. | 89·167 | 97·273 |
| — .. .. | 14 — .. | 97·500 | 106·364 | — .. .. | 6½ — .. | 88·958 | 97·045 |
| — .. .. | 13⅞ — .. | 97·292 | 106·136 | — .. .. | 7 — . | 88·750 | 96·818 |
| — .. .. | 13 — .. | 97 083 | 105·909 | — .. .. | 7½ — .. | 88·542 | 96·591 |
| — .. .. | 12⅞ — .. | 96·875 | 105·682 | — .. .. | 8 — .. | 88·333 | 96·364 |
| — .. .. | 12 — .. | 96·667 | 105·455 | — .. .. | 8½ — .. | 88 125 | 96·136 |
| — .. .. | 11⅞ — .. | 96·458 | 105·277 | — .. .. | 9 — .. | 87·917 | 95·909 |
| — .. .. | 11 — .. | 96·250 | 105·000 | — .. .. | 9½ — .. | 87·708 | 95·682 |
| — .. .. | 10⅞ — .. | 96·042 | 104·773 | — .. .. | 10 — .. | 87·500 | 95 455 |
| — .. .. | 10 — .. | 95·833 | 104·545 | — .. .. | 10½ — .. | 87·292 | 95·227 |
| — .. . | 9⅞ — .. | 95·625 | 104·318 | — .. .. | 11 — .. | 87·084 | 95·000 |
| — .. .. | 9 — .. | 95·417 | 104·091 | — .. .. | 11½ — .. | 86·875 | 94·773 |
| — .. .. | 8⅞ — .. | 95·208 | 103·864 | — .. .. | 12 — .. | 86·667 | 94·545 |
| — .. .. | 8 — .. | 95·000 | 103·636 | — .. .. | 12½ — .. | 86 458 | 94·318 |
| — .. .. | 7⅞ — .. | 94·792 | 103·409 | — .. .. | 13 — .. | 86·250 | 94 091 |
| — .. .. | 7 — .. | 94·583 | 103·182 | — .. .. | 13½ — .. | 86·042 | 93·864 |
| — .. .. | 6⅞ — .. | 94·375 | 102·955 | — .. .. | 14 .. .. | 85·834 | 93·636 |
| — .. .. | 6 — .. | 94·167 | 102·727 | — . .. | 14½ .. .. | 85 625 | 93·409 |
| — .. .. | 5⅞ — .. | 93·958 | 102·500 | — .. .. | 15 .. .. | 85·417 | 93·182 |
| — .. .. | 5 — .. | 93·750 | 102·273 | — .. .. | 15½ .. .. | 85·208 | 92·955 |
| — .. .. | 4½ — .. | 93·542 | 102·045 | — .. . | 16 .. .. | 85·000 | 92·727 |
| — .. .. | 4 — .. | 93·333 | 101·818 | — .. .. | 16½ .. .. | 84·792 | 92·500 |
| — .. .. | 3½ — .. | 93·125 | 101·591 | — .. .. | 17 .. .. | 84·583 | 92·273 |
| — .. .. | 3 — .. | 92·917 | 101·364 | — .. .. | 17½ .. . | 84·375 | 92 045 |
| — .. .. | 2½ — .. | 92·708 | 101·136 | — .. .. | 18 .. .. | 84·167 | 91·818 |
| — .. .. | 2 — .. | 92·500 | 100·909 | — .. .. | 18½ .. .. | 83·958 | 91 591 |
| — .. .. | 1½ — .. | 92·292 | 100·682 | — .. .. | 19 .. .. | 83·750 | 91·364 |
| — .. .. | 1 — .. | 92 083 | 100·455 | — .. .. | 19½ .. .. | 83·542 | 91 136 |
| — .. .. | ½ — .. | 91·875 | 100 227 | — .. .. | 20 .. .. | 83·333 | 90·909 |
| — .. .. | Standard .. | 91·667 | 100·000 | and so on for bullion of inferior quality. | | | |

All bullion or foreign coin brought to the Mint for coinage is subject to a seignorage of two per cent.; but upon the re-coinage of rupees, struck at any of the Honourable Company's mints, a duty of one per cent. only is levied.

Upon all bullion of a quality inferior to standard (unless the same be required at the Mint for the purposes of alligation), a charge is made for the expense of refining the said bullion up to the quality of the rupee, at the rate of 0·4 per cent. per dwt. of worseness in the assay report. Thus, upon bullion reported 12½ dwts. worse, the charge for refinage will be,—

12½ multiplied by ·04=0·50, or one-half per cent.

Upon 20 Wo. it will be 20 × ·04=0·80 per cent.

and so on for silver of other qualities, as in the following Table:—

TABLE of Refining Charge on Silver Bullion.

| ASSAY. | Refining Charge per Cent. | ASSAY. | Refining Charge per Cent. | ASSAY. | Refining Charge per Cent. |
|---|---|---|---|---|---|
| 0½ Wo. | 0·02 | 6½ Wo. | 0·26 | 12½ Wo. | 0·50 |
| 1 — | 0 04 | 7 — | 0·28 | 13 — | 0·52 |
| 1½ — | 0 06 | 7½ — | 0·30 | 13½ — | 0·54 |
| 2 — | 0·08 | 8 — | 0 32 | 14 — | 0·56 |
| 2½ — | 0 10 | 8½ — | 0 34 | 14½ — | 0·58 |
| 3 — | 0 12 | 9 — | 0 36 | 15 — | 0·60 |
| 3½ — | 0·14 | 9½ — | 0 38 | 15½ — | 0·62 |
| 4 — | 0·16 | 10 — | 0 40 | 16 — | 0·64 |
| 4½ — | 0·18 | 10½ — | 0·42 | 16½ — | 0·66 |
| 5 — | 0·20 | 11 — | 0·44 | 17 — | 0·68 |
| 5½ — | 0·22 | 11½ — | 0 46 | 17½ — | 0·70 |
| 6 — | 0·24 | 12 — | 0 48 | 18 — | 0·72 |

—Appended to Reg. VII, 1833.

COPPER COIN.

42. The following copper coins shall be issued from any mint within the territories of the East India Company;

| | | |
|---|---|---|
| A half pice weighing . . . . . | 50 | grains troy. |
| A pice weighing . . . . . | 100 | grains troy. |
| A double pice weighing . . . . . | 200 | grains troy. |
| A pie of one-twelfth of an anna piece . . . | 33⅓ | grains troy, |

with such devices as shall be fixed for the same by the Governor-General in Council.—Act XXI, 1835, sec. i; Act XXII, 1844, sec. i.; Act XI, 1854, secs. i, and ii.

43. The said half pice shall be a legal tender in any part of the territories of the East India Company for $\frac{1}{128}$ part of the Company's rupee, and the said pice shall be a legal tender throughout the territories of the East India Company for $\frac{1}{64}$ of the Company's rupee, and the said double pice for $\frac{1}{32}$ of the Company's rupee, and the said pie for $\frac{1}{192}$ of the Company's rupee.—Act XXI, 1835, sec. ii; Act XXII, 1844, sec. ii; Act XI, 1854, sec. iii.

44. Provided always that none of the said copper coins shall be legal tender except for fractions of a rupee.—Act XXI, 1835, sec. iii; Act XXII, 1844, sec. iv; Act XI, 1854, sec. iii.

45. The Trisoolee pice struck for the province of Benares, under the provisions of Regulations X, of 1809, and VII, of 1814, and at the Saugor mint, shall cease to be a legal tender within the province of Benares.—Act XIII, 1844, sec. i.

# EMIGRATION.

TABLE OF ENACTMENTS.

| Original Regulation or Act. | Paras. in Consolidation | REMARKS |
|---|---|---|
| 1839. XIV. i. | | Unnecessary; only rescinds. |
| ii., iii. | 1, 2 | |
| 1842. XV. | | |
| Schedule. | 12 | |
| i. to xvi. | | Incorporated with Act XXI., 1844. |
| 1843. XXI. i. | | Repealed by sec. iv., Act IV., 1852. |
| ii. | | Incorporated with sec. iv., Act XXI., 1844. |
| 1844. XXI. i. | 14 | |
| ii. to vii. | 15 to 20 | |
| viii. | 21 | Additions from Act IV., 1852, secs. i. & ii. |
| ix. to xvii. | 22 to 30 | |
| Schedule. | 13 | |
| 1847. XIII. | 32 | |
| 1852. IV. i., ii. | | Incorporated with sec. xiii., Act XXI., 1844. |
| iii. | 31 | |
| iv., v. | | Relate to Bombay only. |
| XXIV. | | |
| i. to ix. | 3 to 11 | |

# EMIGRATION.

1. On and after the 1st day of July, 1839, every person who shall make with any native of India any contract for labour to be performed in any British or foreign colony without the territories of the East-India Company, or who shall knowingly abet or aid any native of India in emigrating from the said territories for the purpose of being employed as a labourer, shall be liable, on conviction before a magistrate or justice of the peace, to a fine not exceeding two hundred rupees for every native so contracted with, aided, or abetted, and in default of payment of such fine, shall be liable to be imprisoned for a term not exceeding three months.—Act XIV., 1839, sec. ii.

2. Provided always, that nothing in this Act contained shall be taken to apply to any native seaman who shall of his own free will contract to navigate any vessel, or who shall embark on board such vessel in pursuance of such contract, or to any person who shall contract to serve as a menial servant only, or who shall embark as such menial servant.—Act XIV., 1839, sec. iii.

3. Any person who, by force or fraud, unlawfully detains in any place or decoys to any place any native of India, with intent to force or prevail upon him to enter into any service, or contract for service to be performed out of the territories under the Government of the East-India Company into which he was not minded to enter without such force or fraud, or who, by means of false imprisonment, intoxication, intimidation, force, or fraud, causes any native of India to enter into any such service or contract for service, or who attempts, by force or fraud or by any false promise, pretence, or representation, to cause any native of India to depart, either by land or water, from the territories under the Government of the East-India Company, is a crimp, and guilty of crimping within the meaning of this Act.—Act XXIV., 1852, sec. i.

4. The departure of any person out of the territories under the Government of the East-India Company, by land or water, is emigration from the said territories within the meaning of Act XIV., 1839, and of this Act.—Act XXIV., 1852, sec. ii.

5. No person shall be liable to the penalties of Act XIV., 1839, for making, in good faith, any contract with any native of India for labour to be performed in any foreign settlement on the mainland of India, or for knowingly abetting or aiding any native of India in emigrating from the said territories to any such foreign settlement. Provided that if any person shall make any contract with any native of India for service or labour to be performed by such native out of the territories under the Government of the East-India Company, or cause any native of India to depart from the territories under the Government of the East-India Company, or knowingly aid or abet such native of India in emigrating from the said territories to any such foreign settlement with intent that such native shall afterwards depart from India, such person shall be deemed to be a crimp and guilty of crimping within the meaning of this Act, and proof of the subsequent departure of such native from India from any place out of the territories under the Government of the East-India Company within the period of six months from the time of the departure of such native from the said territories under the Government of the East-India Company, shall be primâ-facie evidence of such intent.—Act XXIV., 1852, sec. iii.

6. Every crimp within the meaning of this Act is liable to be imprisoned for a term not exceeding six calendar months, and to pay a fine not exceeding five hundred rupees.—Act XXIV., 1852, sec. iv.

7. Every person who shall, by means of intoxication, false imprisonment, or intimidation, or by means of any false promise, pretence, or representation, force or decoy any native of India out of the territories under the Government of the East-India Company, or fraudulently cause any such native to depart from the said territories, shall be liable to be imprisoned for a term not exceeding three years.—Act XXIV., 1852, sec. v.

8. In every case in which under this Act imprisonment may be awarded for any offence, it shall be lawful for the Court, who may award such imprisonment, to sentence the offender to be kept to hard labour during the whole or such period or periods of such imprisonment as to such Court shall seem meet.—Act XXIV., 1852, sec. vi.

9. In every case in which an offender shall be liable to be imprisoned under paragraph 1, such offender shall be liable to be imprisoned, or imprisoned and kept to hard labour, for a term not exceeding three months for every native contracted with, provided that such imprisonment shall not in any case exceed six months for any one offence.—Act XXIV., 1852, sec. vii.

10. In every case in which any person shall commit an offence under paragraph 1, as explained and amended by this Act, after having been previously convicted, either before or after the passing of this Act, of an offence under that paragraph, such person shall be liable, upon conviction before a Criminal Court of competent jurisdiction, to be imprisoned, or imprisoned and kept to hard labour, for any period not exceeding one year; and in every indictment, information, or other proceeding for such an offence committed after such previous conviction, it shall be sufficient, after describing the offence, to state that the offender was at a certain time and place convicted of an offence under the above-mentioned paragraph, without otherwise describing such previous offence or conviction, and a certificate of the previous conviction, purporting to be signed by the officer having the custody of such previous conviction, or by the deputy or legally authorized assistant of such officer, shall, with proof of the identity of the person of the offender, be sufficient primâ-facie evidence of the first conviction, without proof of the signature or official character of the person appearing to have signed such certificate.—Act XXIV., 1852, sec. viii.

11. The term "magistrate" in Act XIV., 1839, shall extend to joint magistrates and persons lawfully exercising the powers of a magistrate.—Act XXIV., 1852, sec. ix.

## 12.—EMIGRATION TO MAURITIUS.

HER MAJESTY'S ORDER IN COUNCIL.

AT THE COURT AT WINDSOR,

THE 15TH OF JANUARY, 1842.

Present:

THE QUEEN'S MOST EXCELLENT MAJESTY.

HIS ROYAL HIGHNESS PRINCE ALBERT.

| | |
|---|---|
| Lord President. | Lord Stanley. |
| Lord Privy Seal. | Lord Fitzgerald and Vesci. |
| Lord Steward. | Sir Robert Peel, Bart. |
| Lord Chamberlain. | Mr. Chancellor of the Exchequer. |
| Earl of Jersey. | Sir James Graham, Bart. |
| Earl of Ripon. | Sir Edward Knatchbull, Bart. |

Whereas it is probable that the laws now in force in British India for preventing the emigration of the inhabitants thereof to her Majesty's colonial possessions will be shortly repealed so far as regards emigration to the island of Mauritius, and that such last-mentioned emigration will be sanctioned by laws to be for that purpose enacted in India, subject to various provisions to be in such laws made for the protection of such emigrants, and for the prevention of abuses: And whereas it is probable that amongst the provisions so to be made, as last aforesaid, will be a provision for enabling the Governor-General of India to appoint, at ports or places in India, officers charged with the care, protection, and superintendence of all persons proposing to emigrate as labourers from India to Mauritius: And whereas it is probable that provision will be made by law at Mauritius for defraying from the public revenue of that island the expense of introducing emigration thither from British India: And whereas it is necessary that effectual provision should be made by law at Mauritius for regulating any such expenditure, and for the prevention of abuses in the introduction of emigrants from British India into that island,—it is therefore hereby ordered by the Queen's Most Excellent Majesty, by and with the advice of her Majesty's Privy Council, that in the event of any law being made in British India, authorizing the emigration to Mauritius of the natives of India, and repealing the restrictions now in force there in regard to such emigrations, and in the event of any such laws containing provisions enabling the Governor-General of India to appoint, at the several ports of embarkation in India, officers charged with the protection of persons emigrating from such ports to Mauritius, the various rules and Regulations comprised and set forth in the schedule to this present order subjoined, shall, within the island of Mauritius, have the force and effect of law, and shall be observed and carried into effect by all her Majesty's officers, civil and military, in Mauritius, and by all her Majesty's subjects within the same island as to them may respectively appertain.

And the Right Honourable Lord Stanley, one of her Majesty's Principal Secretaries of State, is to give the necessary instructions herein accordingly.

(Signed) C. GREVILLE.

THE SCHEDULE *referred to in the preceding Order, comprising the Rules and Regulations to be observed at Mauritius in regard to Emigrants from British India, resorting to and arriving at that Island.*

*First.* The Governor of Mauritius may from time to time nominate such persons as he shall see fit to act as emigration agents at any port or place in India which the Governor-General of India may designate as a port or place for the embarkation of emigrants to Mauritius, and may also from time to time nominate a proper person to act as protector of immigrants at Mauritius.

*Second.* The remuneration to be given to any such agent in India, shall not depend upon or be regulated by the number of the emigrants sent to Mauritius by him, but shall be in the nature of an annual salary.

*Third.* Every such emigration agent shall ascertain, by personal communication with every emigrant, previously to his or her embarkation from the port or place for which such agent shall be appointed, that such emigrant has not been induced to emigrate by any fraud, false nor unreasonable expectation, and is aware of the distance of Mauritius from the place where he or she is about to emigrate; and such agent shall explain the real advantages likely to be derived by such emigrants from a removal to Mauritius, and at the same time cautioning such emigrant against unreasonable and unwarrantable expectations; and such agent shall also ascertain that every such emigrant is in good health, and not incapacitated from labour by old age, bodily infirmity, or disease.

*Fourth.* It shall not be lawful to ship on board of any ship or vessel carrying emigrants from India to Mauritius, any number of passengers exceeding the proportion of one person for every two tons of the registered burthen of such ship or vessel, and no such ship or vessel carrying emigrants, and having more than one deck, shall have less than the height of six feet at the least between decks, and in case such ship or vessel shall have only one deck, a platform shall be laid beneath such deck, and in such manner as to afford a space of the height of six feet at the least, and that such platform shall not be so laid as that the lower beams shall project above the same, and that no such ship or vessel shall have more than two tiers of berths, and that no such ship or vessel shall carry passengers on any such voyage to Mauritius unless there shall be an interval of six inches at least between the deck or platform, and the floor of the lower tier throughout the whole extent thereof; and whatever may be the tonnage of the ship or vessel, no greater number of passengers shall be taken on board of such ship or vessel than shall be after the rate of one such person for every twelve superficial feet of the lower deck or platform, unoccupied by goods or stores, not being the personal luggage of such persons.

NOTE.—See paragraph 31, post.

*Fifth.* In the computation of the number of passengers within the meaning of these Regulations, two children under the age of ten years shall be considered as equal to and shall be reckoned as one person only.

*Sixth.* There shall be actually laden and on board of every ship or vessel bringing emigrants into Mauritius, at the time of departure of such ship or vessel from the port or place at which such labourers shall be embarked, good and wholesome provisions for the use and consumption of the said passengers over and above the victualling of the crew to the amount or in the proportion following; that is to say, a supply of water to the amount of five gallons to every week of the computed voyage for every passenger on board such ship or vessel, such water being carried in tanks or sweet casks, and a supply of rice, bread, biscuit, flour, oatmeal, or bread stuffs, to the amount of seven pounds weight to every week of the computed voyage for every such passenger. Provided always, that when any such ship or vessel shall be destined to call at a port or place in the course of her voyage for the purpose of filling up her water-casks, a supply of water at the rate before mentioned for every week of an average voyage to such port or place of calling shall be deemed to be a compliance with this Regulation. And provided that the preceding Regulation regarding food shall be deemed to have been complied with in any case where it shall be made to appear that, by the special authority of the Governor-General of India, any other articles of food were substituted for the articles above enumerated as being in his judgment equivalent thereto.

*Seventh.* The number of weeks which shall be deemed necessary for the voyage to Mauritius from any port or ports in India shall be such as shall, from time to time, be determined by any law or ordinance to be promulgated for that purpose by the Governor-General of India in Council, and according to any such law or ordinance shall and may be further determined whether at different periods of the year different estimations are to be made of the probable length of any such voyage, and if by any such law or ordinance the removal of emigrants should, during any particular period

of the year, be prohibited altogether, then any such removal during such prohibited period shall in Mauritius be regarded, dealt with, and punished as an infringement of these present Regulations

*Eighth* Before any such ship or vessel shall be cleared out on any such voyage, the agent, appointed under this ordinance for the port or place from which such ship or vessel shall be cleared out, shall survey or cause to be surveyed by some competent person the provisions and water hereinbefore required to be on board for the consumption of passengers, and shall ascertain that the same are in good and sweet condition, and also that over and above the same there is on board an ample supply of water and stores for the victualling of the crew of the ship or vessel, and shall also ascertain that such ship or vessel is generally reputed seaworthy, and that the directions hereinbefore contained for insuring the health and safety of the passengers have been complied with, and shall grant a certificate thereof under his hand to the master of such ship or vessel.

*Ninth* The master of every ship or vessel bringing emigrants to Mauritius shall be bound to provide for and furnish to every such emigrant and his wife and children a sufficient quantity of good and wholesome provisions for his, her, and their daily maintenance during such voyage, and during the space of forty-eight hours next after the arrival of such ship or vessel in Mauritius.

*Tenth* Two copies of these Regulations, authenticated by the signature of the agent at the port or place from which such emigrants shall come, shall be delivered to the master by such agent on demand at the time of clearance, and shall be kept on board of every ship or vessel carrying such emigrants as aforesaid, and one of such copies shall, upon request made at seasonable times to the master of the ship or vessel, be produced to any passenger for his perusal

*Eleventh* The master of every ship or vessel carrying emigrants from India to Mauritius shall, before clearing out such ship or vessel, deliver to such agent, at the port or place from which such vessel shall be cleared out, a list in writing together with a duplicate of the same, specifying as accurately as may be the names, ages, and occupations of all and every the emigrants on board such ship or vessel, and such agent shall thereupon deliver to the said master the counterpart of such lists, signed by such agent, and the said master shall on the arrival of such ship or vessel at Mauritius, and previous to the disembarkation of any such emigrants, give notice of the arrival of such ship or vessel, and deliver the said counterpart of such list to the protector of immigrants hereinbefore mentioned And such protector of immigrants shall forthwith proceed on board of such ship or vessel, and shall ascertain as far as possible by personal inspection of the ship or vessel and passengers whether the directions hereinbefore contained with regard to the situation of the berth of such ship or vessel, the proportion of the passengers to the burthens and measurement of such ship or vessel, and the maintenance of the emigrants during such passage, have been complied with, and such protector of immigrants shall personally muster such emigrants and compare the number and names of such emigrants with the said counterparts of such lists, and shall certify in writing under his hand upon such counterpart the total number of emigrants then living and being on board of such vessel, and in case any such emigrant shall have died during the passage, or the number of the names of the emigrants shall differ from the number or names stated in such counterpart, the protector of immigrants shall note such death or difference upon such counterpart, and thereupon shall grant a license under his hand for the disembarkation and landing of such emigrants

*Twelfth* If the protector of immigrants, on such personal inspection of the ship or vessel and emigrants, shall be satisfied that the preceding Regulations have been complied with, he shall grant a certificate under his hand of the arrival in Mauritius of such emigrants respectively, and the place from which and the ship or vessel in which such emigrants shall have arrived

*Thirteenth* No money shall be payable by the colonial treasurer of Mauritius in respect of any such emigrants as aforesaid, except on the warrant of the Governor of that island, which warrant shall not be issued except on such certificate as aforesaid of the said protector of immigrants

*Fourteenth* The protector of immigrants shall keep a register of all persons in respect of whom any such certificate as aforesaid shall be granted, and of the ship or vessel in which, the port from which, and the time at which such person shall have arrived in this colony, a copy of which registry shall be laid before the Council of Government, on the 31st day of March, the 30th of June, the 30th day of September, and the 31st of December in each year.

*Fifteenth* If any ship or vessel bringing emigrants from India to Mauritius shall carry any number of passengers exceeding the proportion authorized and allowed by these Regulations, a penalty of five pounds per head shall be payable in respect of each passenger so carried in excess of such proportion, or if such ship or vessel shall not be of the height between decks hereinbefore required, or if such a platform as hereinbefore directed shall not be laid and continued throughout the whole duration of any such voyage, in such manner as is hereinbefore required, or if there shall be more than two tiers of berths, or if there shall not be throughout the whole duration of any such voyage, such an interval as is hereinbefore prescribed between the deck and the floor of the lower tier of berths; or if any such ship or vessel shall clear out, and put to sea not having on board such water and provisions as aforesaid for the use and consumption of the passengers, of

the kind and to the amount and in the proportion hereinbefore directed; or if any such ship or vessel shall be cleared out before such lists of emigrants shall have been delivered in manner and form aforesaid, or if any such lists shall be wilfully false; or if the copy of these Regulations be not produced as hereinbefore required, or if any emigrant shall not be maintained during such voyage, and for forty-eight hours after his arrival; the master of any such ship or vessel shall, for and in respect of each and every such offence, be liable, on summary conviction before any stipendiary magistrate at any time within the space of twelve calendar months next after the arrival of such master within the colony of Mauritius, to the payment of a fine not less than five pounds, nor more than twenty pounds British sterling; and in default of payment of the fine above mentioned either immediately, or at the time fixed by such stipendiary magistrate at the time of making such conviction, to imprisonment for any time not less than one nor more than three calendar months.

*Sixteenth.* Provided, nevertheless, that nothing herein contained shall take away or abridge any right of suit or action which may accrue to any emigrant in any such ship or vessel, or to any other person in respect of the breach or non-performance of any contract made or entered into between, or on the behalf of any such emigrant or other person, and the master, owner or owners of any such ship or vessel.

*Seventeenth.* Provided always, that nothing in these Regulations contained shall apply to any ship or vessel in the service of the Lords Commissioners of the Admiralty, or to any of her Majesty's ships of war.

*Eighteenth.* No emigrant arriving from India at Mauritius shall be capable of entering into any contract of service to be performed in that island, until he shall have been at least forty-eight hours on shore there, and every such contract of service made before that time shall be null and void to all intents and purposes.

*Nineteenth.* No emigrant arriving from India at Mauritius, and engaging to labour in that island, shall within Mauritius be liable to any action, suit, or demand, for or in respect of any debt contracted, or any contract made by such emigrant before his arrival in the said island.

*Twentieth.* No emigrant arriving from India at Mauritius shall in Mauritius be capable of entering into any contract for service except for the period, in the manner and under the superintendence which by a law in force there is required in the case of contracts for service made by other labourers in agriculture or manufactures within the said island.

*Twenty-first.* No payment shall be made from the treasury of the said island in respect of any emigrants introduced there from India, unless on proof, to the satisfaction of the Governor of Mauritius, that all rules and regulations which may be established by law in India for the advantage and protection of such emigrants have been duly complied with, such rules and regulations not being repugnant to any thing in these Regulations contained.

*Twenty-second.* In every case in which the penalties hereby denounced against offences are imposed by the use of the words in the masculine gender or in the singular person, such words shall be understood as extending to the feminine gender also, and to any number of persons, unless when the opposite construction is required in order to meet the object and to accomplish the ends with a view to which these Regulations are established and made.—Prefixed to Act XV., 1842. (Signed) C. GREVILLE.

## 13.—EMIGRATION TO JAMAICA, BRITISH GUIANA, AND TRINIDAD.

*Schedule appended to Act XXI.,* 1844, *consisting of Parts of the preceding Order in Council of Her Majesty.*

*First.* The Governors of Jamaica, British Guiana, and Trinidad, may from time to time nominate such persons as they shall see fit to act as emigration agents at Calcutta, Madras, and Bombay.

*Second.* The remuneration to be given to any such agent in India shall not depend upon or be regulated by the number of the emigrants sent by him, but shall be in the nature of an annual salary.

*Third.* Every such emigration agent shall ascertain, by personal communication with every emigrant previously to his or her embarkation from the port or place for which such agent shall have been appointed, that such emigrant has not been induced to emigrate by any fraud, false or unreasonable expectation, and is aware of the distance of the colony to which he or she is about to emigrate from the place where he or she is about to embark; and such agent shall explain the real advantages likely to be derived by such emigrant from a removal to such colony, at the same time cautioning such emigrant against unreasonable and unwarrantable expectations; and such agent

shall also ascertain that every such emigrant is in good health, and not incapacitated from labour by old age, bodily infirmity, or disease.

*Fourth.* It shall not be lawful to ship on board of any ship or vessel carrying emigrants from India to any of the colonies aforesaid, any number of passengers exceeding the proportion of one person for every two tons of the registered burthen of such ship or vessel, and no such ship or vessel carrying emigrants, and having more than one deck, shall have less than the height of six feet at the least between decks, and in case such ship or vessel shall have only one deck, a platform shall be laid beneath such deck and in such manner as to afford a space of the height of six feet at the least, and that such platform shall not be so laid as that the lower beams shall project above the same, and that no such ship or vessel shall have more than two tiers of berths, and that no such ship or vessel shall carry passengers on any such voyage to any of the colonies aforesaid, unless there shall be an interval of six inches at least between the deck or platform and the floor of the lower tier throughout the whole extent thereof; and whatever may be the tonnage of the ship or vessel, no greater number of passengers shall be taken on board of such ship or vessel than shall be after the rate of one such person for every twelve superficial feet of the lower deck or platform unoccupied by goods or stores not being the personal luggage of such person.

NOTE.—See paragraph 31, post.

*Fifth.* In the computation of the number of passengers within the meaning of these Regulations, two children under the age of ten years shall be considered as equal to, and shall be reckoned as, one person only.

*Sixth.* There shall be actually laden on board of every ship or vessel conveying emigrants into any of the colonies aforesaid, at the time of departure of such ship or vessel from the port or place at which such labourers shall be embarked, good and wholesome provisions for the use and consumption of the said passengers, over and above the victualling of the crew, to the amount or in the proportion following; that is to say, a supply of water to the amount of five gallons for every week of the computed voyage for every passenger on board such ship or vessel, such water being carried in tanks or sweet casks, and a supply of rice, bread, biscuit, flour, oatmeal, or bread stuffs, to the amount of seven pounds weight to every week of the computed voyage, for every such passenger; provided always, that when any such ship or vessel shall be destined to call at a port or place in the course of her voyage for the purpose of filling up her water-casks, a supply of water at the rate before mentioned for every week of an average voyage to such port or place of calling shall be deemed to be a compliance with this Regulation, and provided that the preceding Regulation regarding food shall be deemed to have been complied with in any case when it shall be made to appear that by the special authority of the Governor-General of India in Council, any other articles of food were substituted for the articles above enumerated as being in his judgment equivalent thereto.

*Seventh.* Before any such ship or vessel shall be cleared out on any such voyage, the agent appointed for the port or place from which such ship or vessel shall be cleared out, shall survey, or cause to be surveyed by some competent person, the provisions and water hereinbefore required to be on board for the consumption of passengers, and shall ascertain that the same are in good and sweet condition, and also that over and above the same there is on board an ample supply of water and stores for the victualling of the crew of the ship or vessel, and shall also ascertain that such ship or vessel is generally reputed sea-worthy, and that the directions hereinbefore contained for ensuring the health and safety of the passengers have been complied with, and shall grant a certificate thereof under his hand to the master of such ship or vessel.

*Eighth.* The master of every ship or vessel conveying emigrants to Jamaica, British Guiana, or Trinidad, shall be bound to provide for and furnish to every such emigrant, and his wife and children, a sufficient quantity of good and wholesome provisions for his, her, and their daily maintenance during such voyage, and during the space of forty-eight hours next after the arrival of such ship or vessel at the place of destination.

*Ninth.* Two copies of these Regulations, authenticated by the signature of the agent at the port or place at which such emigrants shall embark, shall be delivered to the master by such agent on demand at the time of clearance, and shall be kept on board of every ship or vessel carrying such emigrants as aforesaid, and one of such copies shall, upon request made at reasonable times to the master of the ship or vessel, be produced to any passenger for his perusal.

*Tenth.* The master of every ship or vessel carrying emigrants from India to any of the three colonies aforesaid, shall, before clearing out such ship or vessel, deliver to such agent at the port or place from which such vessel is cleared out, a list in writing, together with a duplicate of the same, specifying as accurately as may be, the names, ages, and occupations of all and every the emigrants on board such ship or vessel, and such agent shall thereupon deliver to the said master the counterpart of such lists, signed by such agent, and the said master shall, on the arrival of such ship or vessel at the place of destination, and previous to the disembarkation of

any such emigrants, give notice of the arrival of such ship or vessel, and deliver the said counterpart of such list to the protector of immigrants appointed or to be appointed at the colony at which the said ship or vessel may have arrived.

*Eleventh.* Provided always, that nothing in these Regulations contained shall apply to any ship or vessel in the service of the Lords Commissioners of the Admiralty, or to any of her Majesty's ships of war.—Appended to Act XXI., 1844.

*Acts of the Government of India in respect of Emigration to Mauritius, Jamaica, British Guiana, and Trinidad.*

14. In conformity with the above order, and for the purpose of giving effect thereto, it is enacted, that Act No. XIV. of 1839, and all Acts repealed thereby, so far as the same are applicable to the emigration of natives from the ports of Calcutta, Madras, and Bombay, respectively, to the Mauritius, Jamaica, British Guiana, and Trinidad, shall be repealed. Provided always, that the aforesaid Act, No. XIV. of 1839, shall remain in full force in all the ports of India except the ports aforesaid, and in regard to emigrants from India proceeding to other places than the Mauritius, Jamaica, British Guiana, and Trinidad.—Act XV., 1842, sec. i.; and Act XXI., 1844, sec. i.

15. Emigrant labourers, being native inhabitants of the territories under the Government of the East-India Company, shall be allowed to pass and to be conveyed to the Mauritius, Jamaica, British Guiana, and Trinidad, respectively, from the ports of Calcutta, Madras, and Bombay, respectively, but not otherwise.—Act XV., 1842, sec. ii.; and Act XXI., 1844, sec. ii.

16. At each of the three ports aforesaid, it shall be lawful for the Government of the presidency within which the port is situated, to authorize such persons as may be nominated by the Governments of the Mauritius, Jamaica, British Guiana, or Trinidad, to act as emigration agents at the aforesaid ports respectively, and to exercise the powers conferred on emigration agents by this Act, and every such emigration agent shall make monthly reports to the Government to which he is subordinate of all matters transacted by him in pursuance of this Act.—Act XV., 1842, sec. iii.; and Act XXI., 1844, sec. iii.

17. At each of the three ports aforesaid, it shall be lawful for the Government of the presidency within which the port is situated to nominate a proper person to act as protector of emigrants at the aforesaid ports respectively.—Act XXI., 1843, sec. ii.; and Act XXI., 1844, sec. iv.

18. It shall not be lawful to convey any emigrant, being a native of India, who may embark for the purpose of labouring for hire in any of the colonies of the Mauritius, Jamaica, British Guiana, or Trinidad, from any of the ports aforesaid in any ship or vessel, unless a license be obtained for carrying emigrants in such ship or vessel from the Government of the presidency in which the port is situated. A fee, not exceeding one rupee per emigrant, as may be regulated from time to time by the local Government, shall be demandable in respect of every such license, which fee shall be carried to the credit of the said Government, and the granting or withholding any such license shall be entirely discretionary with the Government; and in consideration of such license, the master of every ship, conveying or destined to convey emigrants from India, shall execute a bond, binding himself and his owners in a penal sum of ten thousand rupees to conform to the several conditions herein provided, and the said bond shall be executed in duplicate, that it may be put in suit either at the place of execution or in the colony to which the emigrants are to be conveyed, and one copy shall be forwarded to the Government of such colony to be dealt with as the case may require. And every ship or vessel in which any such emigrant shall be conveyed without a license being obtained as aforesaid shall be liable to be forfeited, and the master thereof shall be liable as for a misdemeanor in a fine of one thousand rupees for every such emigrant so illegally conveyed.—Act XV., 1842, sec. iv.; and Act. XXI. 1844, sec. v.

19. It shall not be lawful for the master of any vessel licensed as above to receive on board any emigrant labourer, as above provided, unless such labourer shall have in his possession and show a certificate or pass to be given to him by the emigration agent of the port, countersigned by the protector, stating his name and the name of his father, and his age, and certifying that having appeared before such agent, he has declared his willingness to proceed to work for hire in the colony to which such vessel is bound, and has been engaged by him as an emigrant to such colony on the part of the Government thereof.—Act XV., 1842, sec. v.; Act XXI., 1843, sec. ii.; Act XXI., 1844, sec. vi.

20. Before any ship or vessel, so licensed to carry emigrant labourers as above provided, shall be cleared out from any of the aforesaid ports for any one of the colonies aforesaid, it shall be necessary for the master of such ship or vessel, provided any emigrant of the description aforesaid shall embark therein, to obtain from the emigration agent, so nominated and authorized at such port as aforesaid, a certificate under the hand of such agent to the effect following, that is to say:—

*First.* That such agent has by personal communication done what is required on the part of such agent by the Third Article of the preceding Schedule; provided always, that every such agent shall make the inquiries specified in such schedule in an open Court or public office to which all persons shall have admission.

*Second.* That all the directions contained in the fourth, fifth, sixth, seventh, and eighth Articles of the said Schedules for insuring the health and safety of passengers have been duly complied with.

*Third.* That (in addition to the directions contained in the said schedules) such rules have been complied with as the Governor-General in Council shall from time to time frame touching the medical attendance and medical stores, and the proper clothing to be provided, the species of provisions suited to native habits, the number of women that should accompany the emigrants, or other matters.—Act XV., 1842, sec. vi.; and Act XXI., 1844, sec. vii.

21. With reference to Article Seventh of the Schedule, the probable length of a voyage to the Mauritius from the respective ports aforesaid shall, for the purposes of this Act, be deemed to be for the port of Calcutta—

Between the months of April and October inclusive, ten weeks.

Between the months of November and March inclusive, eight weeks.

For the port of Madras—between the months of April and October inclusive, seven weeks; and between the months of November and March inclusive, five weeks.

For the port of Bombay—between the months of April to September inclusive, five weeks; and between the months of October to March inclusive, six weeks.

The probable lengths of the voyages to Jamaica, British Guiana, and Trinidad, from the ports aforesaid respectively, shall, for the purpose of this Act, be deemed to be—

For the port of Calcutta, twenty weeks;
For the port of Madras, nineteen weeks;
For the port of Bombay, nineteen weeks;

and that no ship or vessel carrying emigrant labourers to Jamaica, British Guiana, or Trinidad, shall sail from Calcutta at any other time than between the 31st August and the 1st of March next thereafter ensuing; nor from Madras or Bombay at other time than between the 30th day of September and the 1st of March next thereafter ensuing.—Act XV., 1842, sec. vii.; Act XXI., 1844, sec. viii.; Act IV., 1852, secs. i. and ii.

22. Before any ship or vessel shall be cleared out from any of the aforesaid ports for Mauritius, Jamaica, British Guiana, or Trinidad, it shall be necessary for the master thereof to deliver to the emigration agent, so nominated and authorized at such port as aforesaid, the list specified in Article 11 of the schedule (Art 10, Schedule 2), and to obtain such duplicate thereof as is required by the said article.—Act XV., 1842, sec. viii.; and Act XXI., 1844, sec. ix.

23. If the master of any ship or vessel shall at any of the ports aforesaid take on board such ship or vessel any emigrant labourer of the description aforesaid, and shall clear such ship or vessel for Mauritius, Jamaica, British Guiana, or Trinidad, without having fully complied with every particular hereinbefore required previous to clearance, he shall be liable, on conviction before any magistrate or justice of the peace, in a penalty of two hundred rupees for every emigrant labourer so taken on board his ship or vessel.—Act XV., 1842, sec. ix.; and Act XXI., 1844, sec. x.

24. If the master of any ship or vessel shall, after having cleared such ship or vessel at any such port as aforesaid for the Mauritius, Jamaica, British Guiana, or Trinidad, take on board any such emigrant labourer as aforesaid, without having entered such emigrant labourer in such list as aforesaid, or without having obtained such duplicate as aforesaid containing the entry of such emigrant prior to clearance, he shall be liable, on conviction before any magistrate or justice of the peace, in a penalty not exceeding five hundred rupees for every emigrant so taken on board his ship or vessel.—Act XV., 1842, sec. x.; Act XXI., 1844, sec. xi.

25. If any master of any ship or vessel cleared for the Mauritius, Jamaica, British Guiana, or Trinidad as aforesaid, shall, after having obtained such certificate as aforesaid, fraudulently do or suffer to be done any act or thing whereby such certificate shall become inapplicable to the altered state of the ship or vessel, its passengers, or other matters to which such certificate relates, such master shall be liable, on conviction, in any penalty not exceeding five thousand rupees, beside incurring a forfeiture of any bond executed in consideration of any license obtained for the vessel as originally described.—Act XV., 1842, sec. xi.; and Act XXI., 1844, sec. xii.

26. For the greater security against emigrant labourers being embarked for the Mauritius, Jamaica, British Guiana, or Trinidad, contrary to the provisions of this Act, all the powers vested by law in the officers of customs in regard to the searching and detention of ships or vessels, or otherwise for the prevention of smuggling on board thereof, may be exercised by such officers for the prevention of the illegal embarkation of such emigrants as aforesaid on board ships or vessels bound for the Mauritius, Jamaica, British Guiana, or Trinidad, and of other offences against this Act; and it is further enacted, that all pilots in the service of the East-India Company shall

be invested with the same powers and be charged with the same duties as preventive officers of customs in this behalf.—Act XV., 1842, sec. xii.; and Act XXI., 1844, sec. xiii.

27. Every person who shall attempt, by means of intoxication or by false imprisonment, or other means of crimping, to export any native on board any ship or vessel contrary to the provisions of this Act, shall be liable to be punished, on conviction before a magistrate, in a fine not exceeding five hundred rupees, or imprisonment not exceeding six months, provided that nothing in this Act contained shall prevent the offender from being proceeded against by indictment, but the offender shall only be liable to one of these courses of proceeding.—Act XV., 1842, sec. xiii.; and Act XXI., 1844, sec. xiv.

28. Whenever a vessel shall clear from Calcutta for the Mauritius, Jamaica, British Guiana, or Trinidad, with emigrant labourers duly embarked thereon, the customs officer on board such vessel shall countersign the pass or certificate brought on board such vessel, by every such emigrant labourer, and shall keep a register of every such emigrant labourer as may come on board. And such customs officer shall remain on board such vessel until she shall arrive in Saugor Roads, and shall not come away until a muster of the crew and passengers and emigrant labourers has been made in his presence and in that of the pilot in charge of the vessel; and after the customs officer has taken muster and quitted the vessel, the pilot shall continue to exercise the duties indicated in paragraph 26, and it shall be lawful for him, if he shall deem it necessary, to require the master or commander to take a general muster of the crew and passengers and emigrant labourers on board, and to sign a muster-roll so taken, and every such custom-house officer and pilot shall make a complete report of the emigrant labourers on board of any ship at the time of his quitting the same, and such report shall contain a declaration that, to the best of the declarant's belief, no additional emigrant labourers have been received on board since obtaining the certificate, and that nothing else has been done or omitted to be done in the ship or vessel contrary to the provisions of this Act, and every such report or muster, if any, shall be transmitted without delay to the emigration agent of the port. And any custom-house officer or pilot who shall wilfully make a false, erroneous, or incomplete report of the emigrant labourers on board of any ship, or who shall connive at the unauthorized embarkation of any such emigrant labourers, shall be liable, besides dismissal, to a fine of five hundred rupees, commutable, if not paid, to imprisonment in the Calcutta gaol for six months, and the penalty shall be adjudged in like manner as similar penalties are adjudged for offences committed in respect to the customs revenue.—Act XV., 1842, sec. xiv.; and Act XXI., 1844, sec. xv.

29. If any person shall forge, or shall use, knowing it to be forged, any document required by this Act such person shall be liable to be imprisoned for any period not exceeding seven years.—Act XV., 1842, sec. xv.; and Act XXI., 1844, sec. xvi.

30. All the several penalties to which the masters of ships or vessels are liable by this Act shall be enforced by information laid before any justice of the peace, at the instance of the emigration agent, or of any officer appointed for the purpose by the Government of the place or presidency, or may be enforced by putting in suit the bond given by the master, if such bond has been given in consideration of the license granted to the ship.—Act. XV., 1842, sec. xvi.; and Act XXI., 1844, sec. xvii.

31. No ship or vessel carrying emigrants, and having more than one deck, shall have less than the height of five feet and six inches at the least between decks, and in case such ship or vessel shall have only one deck, a platform shall be laid beneath such deck in such manner as to afford a space of the height of five feet and six inches at the least, and such platform shall not be so laid as that the lower beams shall project above the same; and whatever may be the tonnage of the ship or vessel, no greater number of emigrant labourers shall be taken on board such ship or vessel than shall be after the rate of one emigrant labourer for every seventy-two cubic feet of space between decks, or between the deck and platform, unoccupied by goods or stores not being the personal luggage of such emigrant labourers, anything in act XV., of 1842, or in the schedule therein mentioned, to the contrary notwithstanding.—Act IV., 1852, sec. iii.

## EMIGRATION TO CEYLON.

32. Act XIV., of 1839, in so far as it makes liable to penalties every person who shall make with any native of India any contract for labour to be performed in the island of Ceylon, or who shall knowingly aid or abet any native of India in emigrating from the territories subject to the Government of the East-India Company to the said island, is repealed. This Act shall not come into operation until the Governor-General of India in Council shall be duly certified that the Legislature of the said island has made such laws as the said Governor-General in Council shall think sufficient for the protection of such natives of India so emigrating to the said island against the evils aforesaid, and shall notify in the Gazette that he has been so certified.—Act XIII., 1847.

# MISCELLANEOUS.

## PILGRIM-TAX AND TEMPLE OF JUGGERNAUTH.

### TABLE OF ENACTMENTS.

| Original Regulation or Act. | Paras. in Consolidation. | REMARKS. |
|---|---|---|
| 1793. XXVII. iv.<br>1805. XII. xxxvi. | | Parts relating to Pilgrim-Tax repealed by sec. i., Act X., 1840. |
| 1806. IV.<br>1806. V.<br>1808. VI. ix.<br>1809. IV.<br>1810. IV. iv.<br>1810. XI.<br>1810. XVIII. | | Repealed by sec. i., Act X., 1840. |
| 1840. X. i. | | Preamble and rescission only. |
| ii. to iv. | 1 to 3 | |

# MISCELLANEOUS.

## PILGRIM-TAX AND TEMPLE OF JUGGERNAUTH.

1 The superintendence of the Temple of Juggernauth, and its interior economy, the conduct and management of its affairs, and the control over the priests, officers, and servants attached to the temple, shall continue vested in the Rajah of Khoorda for the time being; provided always, that the said rajah, and all persons connected with the said temple, shall on all occasions be guided by the recorded rules and institutions of the temple, or by ancient and established usage, so far as the same may be consistent with the provisions of this Act.—Act X., 1840, sec. ii.

2. The said Rajah of Khoorda shall not receive, or allow to be received by any person connected with the said temple, any payment, other than such voluntary donations as may be freely offered, from any person resorting to the said temple for the performance of religious ceremonies. —Act X., 1840, sec. iii.

3. The said rajah, and all priests, officers, and servants attached to the said temple, are and shall be liable to be sued or prosecuted, by any party interested, in any Civil or Criminal Court of competent jurisdiction, for any breach of trust or official misfeasance committed in the conduct of their duties, or for any extortion or illegal violence exercised upon pilgrims or others under colour of the authority conveyed in this Act.—Act X., 1840, sec. iv.

# MISCELLANEOUS.

## SLAVERY.

### TABLE OF ENACTMENTS.

| Original Regulation or Act. | Paras. in Consolidation. | REMARKS. |
|---|---|---|
| 1832. III. ii. | 1, 2 | |
| 1843. V. i. to iv. | 3 to 6 | |

1. ALL slaves who, subsequently to the enactment of Regulation X, 1811 (SPECIFIC OFFENCES, paragraphs 163 to 169), have been, or may hereafter be, removed by sea or land, for purposes of traffic, from any country, territory, or province, British or foreign, into any province now dependent, or that may become hereafter dependent on the presidency of Fort William subsequently to the date on which it has or may become so dependent, or who have been or may be so removed from one province that now is, or may hereafter become dependent on the presidency of Fort William, into any other province that now is, or may hereafter become dependent, subsequently to the dates on which they respectively have or may become dependent, are declared free.—Reg. III, 1832, sec. ii, cl. 1.

2. All persons concerned in the sale or purchase as a slave, of any man, woman, or child so removed, knowing him or her to have been so removed, on conviction thereof before a magistrate, shall be liable to be sentenced to imprisonment for the period of six months, and to pay a fine to Government according to their circumstances in life, not exceeding the sum of rupees two hundred, commutable, if not duly discharged, to imprisonment for the further period of six months, on the expiration of the former part of the sentence.—Reg. III, 1832, sec. ii, cl. 2.

3. No public officer shall, in execution of any decree or order of court, or for the enforcement of any demand of rent or revenue, sell or cause to be sold any person, or the right to the compulsory labour or services of any person, on the ground that such person is in a state of slavery.—Act V, 1843, sec. i.

4. No rights arising out of an alleged property in the person and services of another as a slave shall be enforced by any civil or criminal court, or magistrate, within the territories of the East India Company.—Act V, 1843, sec. ii.

5. No person who may have acquired property by his own industry, or by the exercise of any art, calling, or profession, or by inheritance, assignment, gift, or bequest, shall be dispossessed of such property, or prevented from taking possession thereof, on the ground that such person or that the person from whom the property may have been derived was a slave.—Act V, 1843, sec. iii.

6. Any act which would be a penal offence if done to a free man, shall be equally an offence if done to any person on the pretext of his being in a condition of slavery.—Act V, 1843, sec. iv.